

## TIME OFF POLICIES

### Paid Time Off (PTO)

Paid Time Off (PTO) is a benefit provided to all full-time employees. It is paid time away from work and can be used for any reason including, vacation, holiday, personal day, bereavement, birthday and illness. Use of available PTO is always subject to supervisor approval and department guidelines. Scheduled requests for PTO should be made as far in advance as possible and at least 10 days before the leave. PTO will be approved so as to provide adequate coverage of jobs and staff requirements. Additionally, it is the employee's responsibility to provide adequate notice when not able to work regularly-scheduled shifts.

The established PTO year is the calendar year, January 1 through December 31 each year. PTO is accrued or earned based on the employee's length of service. PTO will not be paid in advance. For full time employees, PTO will accrue from the first day worked but will not be available for use until the employee has completed 90 calendar days of employment. Part time employees who transition to full time must also work full time for 90 days but will start accruing PTO after the first pay period that is 30+ hours. After six( 6)weeks, the status of full time employees who do not maintain 30+ hours weekly will change to part time status and all benefits including PTO time accrued will be lost.

Paid leave, excluding Family Medical Leave, may not exceed more than 10 business days at a given time without written request. Factors that will be reviewed when considering such a request include job requirements, business need, and the employee's performance. The approval or denial of extended leave is at the discretion of the department director and human resources. The request must not exceed thirty (30) days without written permission from the Human Resources Director. Time off may be paid or unpaid depending upon the circumstance. Employees are required to utilize any available PTO, and once PTO is exhausted, leave would become unpaid. PTO will not accrue during unpaid leave and employees can not be paid for PTO in lieu of time off. An employee is responsible for payment of the employee portion of the premium for insurance coverage, while on leave and failure to pay such premiums will result in termination of coverage. Hourly office and CFE employees must use PTO to be paid in the event on an unplanned office closure.

Years of Service	Accrual	Max Carry Over
1-2	104 hours	104 hours
3-5	128 hours	128 hours
6-9	152 hours	152 hours
10-14	176 hours	176 hours
15-19	200 hours	200 hours
20-24	224 hours	224 hours
25+	248 hours	248 hours

The chart above indicates the number of PTO hours granted to eligible employees on an annual basis and the maximum number of PTO hours that may be accrued for roll over as of December 31. PTO hours are earned and accrued on the last day of each month worked.

**ARKANSAS SUPPORT NETWORK, INC. PERSONNEL  
POLICIES  
(Revised July 2017)**

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**Policy:** It is the policy of Arkansas Support Network (ASN) that this manual be used as an outline of the basic personnel policies, practices, and procedures for the organization. The board of directors of ASN has sole authority to establish, revise, and revoke policy.

**Comment:**

- (1) This manual contains general statements of ASN policy and should not be read as including the fine details of each policy, nor as forming an expressed or implied contract or promise that the policies discussed in it will be applied in all cases. ASN may add to the policies in the manual or revoke or modify them occasionally. It will try to keep the manual current, but there may be times when policy will change before material can be revised.
- (2) As used in this manual:
  - a) The words “shall” or “will” are to be construed as mandatory and the word “may” as permissive.
  - b) “Immediate family” includes the employee’s spouse, brother, sister, parent, grandparent, child, stepchild, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, and son-in-law. Note: for family medical leave, ASN will use the definition of “immediate family” as defined in the family and medical leave act (FMLA).
  - c) “Community support specialist (CSP)” refers to all grades: CSP 1, CSP 2, CSP 3, and CSP 4 unless a particular grade is specified.
  - d) “Consumer” refers to any individual who receives services from any division of this agency.
  - e) All employees will be considered non-exempt unless they are employed in capacities exempt under the fair labor standards act.
  - f) Exempt employees are employed in executive, administrative, and professional capacities exempt from the provisions of the Fair Labor Standards Act.
  - g) Employees will be categorized as full-time if they work at least 30 hours per week. Occasionally, an employee’s schedule may change from full-time to part-time. When this happens, the employee will maintain his full-time status for six weeks as long as the employee and his supervisor are actively pursuing

full time status.

- i) A per diem employee is an employee who is neither hourly nor salaried. A per diem employee is paid on a per shift basis.
- j) One day as used for sick time accrual (702:1) and vacation time accrual (501:1) means a calendar day for hourly and salaried employees. One shift equals one day for per diem employees. No shift will exceed 12 hours.

## **EMPLOYMENT-AT-WILL**

**102:1**

**Policy:** It is the policy of ASN that all employees are employed at the will of ASN for an indefinite period. The only exception will be employees who have a written employment contract with Arkansas Support Network for a specific, fixed term of employment.

**Comment:**

- 1) Employees who do not have a separate, individual written employment contract are employed at the will of ASN and are subject to termination at any time, for any reason, with or without cause or notice. At the same time, such employees may terminate their employment at any time and for any reason.

## **EQUAL EMPLOYMENT OPPORTUNITY**

**201:1**

**Policy:** It is the policy of ASN to provide equal opportunity in employment to all employees and applicants for employment. No person is to be discriminated against in employment because of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, military status, or genetic information.

**Comment:**

- (1) This policy applies to all terms, conditions, and privileges of employment including, but not limited to hiring, probationary period, training, placement, and employee development, promotion, transfer, compensation, benefits, educational assistance, layoff and recall, social and recreational programs, employee facilities, termination, and retirement.
- (2) The designated equal opportunity officer of ASN will be the CEO.
- (3) Any communication from an applicant for employment, an employee, a government agency, or an attorney concerning any equal employment opportunity matter will be referred to the CEO.
- (4) Any employees who feel that they are the victim of discrimination have a responsibility to report this fact to their supervisor and/or or the human resources department and/or the CEO.

**Policy:** It is the policy of ASN that employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. No form of harassment will be tolerated, and special attention is called to the prohibition of sexual harassment.

**Comment:**

- (1) Each supervisor has a responsibility to maintain a work place free of any form of harassment. Any employee, supervisor, or manager who is found to have engaged in harassment of another employee will be subject to appropriate disciplinary action, depending on the circumstances, up to and including termination.
  - a) Sexual flirtations, touching, advances, or propositions;
  - b) Verbal abuse of any nature;
  - c) Graphic, suggestive or degrading comments about an individual's dress or body;
  - d) Degrading words of any kind to describe an individual;
  - e) Display in the workplace of sexually suggestive objects or pictures, including nude photographs.
- (2) Any employee who believes that a supervisor's, another employee's, or a non-employee's actions or words constitute unwelcome harassment has a responsibility to report or complain about the situation as soon as possible. Such report should be made to the employee's supervisor or to the CEO if the complaint involves the supervisor. Complaints involving the CEO should be made in writing to the chair of the board of directors.
- (3) Complaints of harassment are to be handled and investigated under the grievance policy (see grievance and appeal procedure, p 902:1). All complaints of harassment are to be investigated promptly and in as impartial and confidential manner as possible. Employees are required to cooperate in any investigation. A timely resolution of each complaint is to be reached and communicated to the parties involved. Retaliation against an employee for filing a complaint or participating in an investigation is strictly prohibited.



**Policy:** It is the policy of ASN to operate as an equal opportunity employer and to hire individuals solely upon the basis of their qualifications and ability to do the job in question. Unless otherwise provided in writing, employment with ASN is considered to be at-will, so that either party may terminate the relationship at any time and for any lawful reason.

**Comment:**

- a) ASN will normally try to fill job openings above entry level by promoting from within, if qualified applicants are known to be available internally.
- b) If candidates from within ASN are to be considered for job openings, the human resources department will publish the job opening in a manner and format that is available to all employees.
- c) If candidates from outside ASN are to be considered for job openings, the human resources department will be responsible for recruiting the candidates and utilizing the recruitment methods and sources it deems appropriate to fill the openings.
- d) During the recruitment, hiring, and orientation process, no statement is to be made promising permanent or guaranteed employment. No document should be called a contract unless, in fact, a written employment agreement is to be used. All employees with ASN should be aware that employment with ASN is at-will and should exercise great care not to make any representations otherwise.
- e) When candidates from outside ASN are to be considered for job openings, the following procedures should be followed:
  - I. Any candidate for employment must fill out and sign an employment application form in order to be considered for hiring. A conviction statement and a declaration of truth statement will be a part of all applications.
  - II. Applicants deemed qualified for consideration for available job openings will be screened by the human resources department.
  - III. If an applicant is still deemed qualified after HR screening and appropriate testing, the human resources department will then make a determination as to whether the applicant has the legal right to work in the United States and, where appropriate, undertake

credit, personal reference, driving record, and criminal conviction checks.

Child Abuse and Neglect Registry background checks, Adult Protective background checks and state police background checks will be completed on each new prospective employee. A prior conviction, by itself, will not necessarily disqualify an applicant.

- IV. If the human resources department determines that the applicant is qualified for employment, an interview should be arranged between the applicant and head of the division or department with the job opening.
  - V. The division or department head has the responsibility to determine whether an applicant is technically qualified for the position open and if the applicant is compatible with the work environment. If an applicant is applying for a position providing direct supports, the applicant must meet with the individual receiving supports and/or the individual's family/guardian, whenever appropriate. Based on the manager interview and the feedback of the individual receiving services, the division or department head makes the decision to hire an applicant.
  - VI. If the background check, medical, or any other subsequent investigation discloses any misrepresentation on the application form or information indicating that the individual is not suited for employment with ASN, the applicant will be refused employment or, if already employed, may be terminated.
- f) Each new employee is required to sign a statement confirming that the employee has read the personnel policy manual, operating procedures, and job description.
  - g) A member of an employee's immediate family will be considered for employment by ASN, provided the applicant possesses all the qualifications for employment. An immediate family member may not be hired, however, if such employment would:
    - I. Create either a direct or indirect supervisor/subordinate relationship with a family member; or
    - II. Create either an actual conflict of interest or the appearance of a conflict of interest.

These criteria will also be considered when assigning, transferring, or

promoting an employee.

- h) Employees who marry or become members of the same household may continue employment as long as there is not:
  - a) A direct or indirect supervisor/subordinate relationship between such employees; or
  - b) An actual conflict of interest or the appearance of a conflict of interest.

Should one of the above situations occur, Arkansas Support Network, Inc. will attempt to find a suitable position within ASN to which one of the affected employees may transfer. If accommodations of this nature are not feasible, the employees will be permitted to determine which one of them will resign.

- i) Former employees who left ASN in good standing may be considered for re-employment. Former employees who were dismissed for cause may not be considered for re-employment. A former employee who is re-employed will be considered a new employee from the date of re-employment unless the break in service is less than 30 days, in which case the employee will retain accumulated seniority. Length of service for the purposes of benefits is governed by the terms of each benefit plan.

## **APPOINTMENT OF CEO**

**204:1**

**Policy:** It is the policy of ASN that the position of CEO shall be a direct appointment by the board of directors.

**Comment:**

- (1) The position will be advertised in the local news media for not less than two weeks.
- (2) A temporary appointment may be made without advertisement for a period not to exceed ninety (90) calendar days.
- (3) All appointments will be made by the board of directors during a regular or special board meeting.
- (4) A 2/3 vote of the board of directors is required for the appointment of CEO.
- (5) The CEO's performance will be reviewed annually by the board of directors.

**Policy:** It is the policy of ASN to provide orientation programs for new employees and to conduct or support training programs as deemed appropriate.

**Comment:**

- (1) ASN will provide special training programs for safety and health matters when deemed necessary, or as required by government regulations. (see serious diseases, p. 209:1; and universal precautions appendix.)
- (2) It is the intention of ASN that at a minimum, all training programs meet DDS licensure standards.
- (3) All individuals hired by Arkansas Support Network are required to complete twelve (12) hours of initial training. Direct care staff will complete this training within thirty (30) days after date of hire. All other staff will complete this training within ninety days (90) after date of hire.
- (4) Every new employee will complete orientation. (see training appendix.)
- (5) Every new direct care employee will complete staff one-on-one training. (see training appendix.)
- (6) New direct care staff will complete CPR/first aid training upon hire and obtain full certification within 90 days of employment.
- (7) Supervisors of new employees who are not direct care staff will determine and document appropriate one-on-one training (6 hours).

**Policy:** It is the policy of ASN to provide training programs to improve quality of service and to develop employee's skills.

**Comment:**

- (1) All employees will receive a minimum of twelve (12) hours of staff development training each year. A needs assessment for the individual receiving services will be the basis for determining direct care staff training.
- (2) It is the intention of ASN that at a minimum, all training programs meet DDS licensure standards.
- (3) All employees are required to complete an agency overview, blood borne pathogens, and community inclusion classes annually.
- (4) Direct service employees are required to maintain certification in cardiopulmonary resuscitation (CPR) and first aid and to maintain current training in mental health wellness and de-escalation strategies.
- (5) Training will be recorded in each employee's training file.
- (6) For continued employment with ASN, staff training is a requirement. Failure to maintain training up-to-date will result in termination of the employee if not remedied within thirty (30) days of expiration.

**Policy:** It is the policy of ASN to provide training programs to improve quality of service and to develop management skills.

**Comment:**

- (1) The CEO and management staff will participate in a minimum of twelve (12) hours of training annually. Evidence of training will be retained in the employee's file. Training will include, but not be limited to:
  - a) Management for non-profits
  - b) Techniques for working with a board of directors
  - c) Fair employment procedures
  - d) Interviewing and selection of employees
  - e) Employee performance evaluations
  - f) Grievance procedures
  - g) Effective supervision

**Policy:** It is the policy of ASN that an employee will not engage in other employment or in private business during the hours for which he is being compensated by Arkansas Support Network.

**Comment:**

- (1) Outside employment is permitted during off-duty hours provided that:
  - a) Such employment will not interfere with the efficient performance of the employee's duties.
  - b) Such employment will not involve a conflict of interest or conflict with the employee's duties.
  - c) Such employment will not involve performance of duties which the employee should perform as part of his employment with the agency.
  - d) Employees who have outside employment are not eligible for paid sick days when the absence is used to work at the outside job or is the result of an injury sustained on that job. Fraudulent use of sick absences will be cause for disciplinary action up to and including termination. (see absence from work, p. 702.1.)



**Policy:** The management of ASN has an obligation to protect the health and well-being of the individuals served by the organization and the community at large, and as such, reserves the right to make the final determination about an employee's work assignment. It is the policy of ASN that employees with infectious, long-term, life-threatening or other serious disease may work as long as they are physically and mentally able to perform the duties of their job without undue risk to their own health or that of other employees or consumers.

**Comment:**

- (1) For the purposes of this policy serious diseases include, but are not limited to, cancer, heart disease, multiple sclerosis, hepatitis, tuberculosis, human immunodeficiency virus (HIV), and acquired immune deficiency syndrome (AIDS).
- (2) ASN will support, where feasible and practical, educational programs to enhance employee awareness and understanding of serious diseases.
- (3) Employees diagnosed with a serious disease are to be treated no differently than other employees. However, if the serious disease affects their ability to perform assigned duties, such employees are to be treated like other employees who have disabilities that limit their job performance.
- (4) Employees who are diagnosed as having a serious disease and who want an accommodation should inform the human resources department of their condition as soon as possible. Supervisors and human resources department should respond with compassion and understanding. In addition, they should review with the employee ASN policy on such issues as employee assistance, leave and disability, infection control, requesting and granting accommodations, ASN's continuing expectations regarding the employee's performance and attendance, and available benefits.
- (5) Employees who have a serious disease and who want an accommodation should provide human resources department with any pertinent medical records needed to make decisions regarding job assignments, ability to continue working, or ability to return to work. ASN may also require a doctor's certification of an employee's ability to perform job duties safely.
  - a) Additionally, ASN may request that an employee submit to a medical examination if it believes the employee is a health or safety threat to

himself or others.

- b) Medical examinations required by ASN will be paid for by ASN and must be performed by a physician or a licensed medical facility designated or approved by ASN. The results of such examinations, when paid for by ASN are the property of ASN and are treated as confidential and held in a separate medical file.
- (6) ASN will attempt to maintain the confidentiality of diagnosis and medical records of employees with serious diseases, unless otherwise required by law. Information relating to an employee's serious disease will not be disclosed to other employees unless the information is, in the opinion of ASN, necessary to protect the health and safety of the employee, co-workers, or others.
  - (7) ASN will comply with applicable occupational safety regulations concerning employees exposed to blood or other potentially infectious materials. Universal precautions, engineering, work practice controls, and personal protective equipment will be utilized to limit the spread of diseases in the work place.
  - (8) Employees concerned about being infected with a serious disease by a co- worker or other person should convey this concern to the human resources department.
  - (9) Employees who need to use prescribed drugs or narcotics while at work, and where such use may impair their ability to perform their jobs safely and effectively, must report this requirement to the human resources department and their supervisor. Depending on the circumstances, employees may be reassigned, forbidden to perform certain jobs, or not allowed to work if they are deemed unable to perform their jobs safely and properly.
  - (10) ASN reserves the right to require acceptable confirmation of the nature and extent of any illness or injury that requires an employee to be absent from scheduled work. Employees returning from a disability leave or an absence caused by health problems may be required to provide a doctor's certification of their ability to perform their regular work satisfactorily without endangering themselves or others.
  - (11) ASN reserves the right to require a second medical opinion regarding an employee's absence because of illness or injury or regarding a doctor's certification of an employee's ability to return to work. Any such opinion will be paid for by ASN.

- (12) Employees who become ill on the job or suffer any work-connected injury, no matter how minor, are to report such occurrence to their supervisor and to the human resources department.

**Policy:** It is the policy of ASN to terminate employment because of an employee's resignation, discharge, retirement, the expiration of an employment contract, or a reduction in the work force. Discharge can be for any reason not prohibited by law. In the absence of a specific written agreement, employees are free to resign at any time and for any reason. ASN reserves the right to terminate employment at any time and for any reason.

**Comment:**

- (1) For policies and procedures leading up to discharge for disciplinary reasons See *Disciplinary Procedure*, p. 808:1.
- (2) The human resources department should maintain written reports of the termination notice meeting (when applicable).
- (3) The human resources department is responsible for notifying terminated employees, who are covered by ASN's group health plan, of their right to continue coverage under that plan.
- (4) Requests for employment references should be made in writing to the human resources department and should include an authorization by the employee for the release of the requested information. Generally, the human resources department will not release reference information without the employee's authorization or will limit the information to verification of the employee's position, job location, and dates of employment with ASN.
- (5) Termination and discharge procedures are only guidelines and do not constitute a legal contract between ASN and its employees. ASN reserves the right to implement its policies and procedures as it sees fit. In addition, specified grounds for termination are not all-inclusive since ASN reserves the right to terminate employment for any reason.

**Policy:** It is the policy of Arkansas Support Network, Inc., to operate in furtherance of its tax-exempt purposes and in compliance with all applicable laws, rules and regulations, including those concerning accounting and auditing, and prohibits fraudulent practices by any of its board members, officers, employees, or volunteers. The following outlines a procedure for an employee to report actions that the employee reasonably believes violate a law, or regulation or that constitutes fraudulent accounting or other practices. This policy applies to any matter which is related to Arkansas Support Network's business and does not relate to private acts of an individual not connected to the business of Arkansas Support Network.

**Comment:**

If an employee has a reasonable belief that an employee of Arkansas Support Network has engaged in any action that violates any applicable law, or regulation, including those concerning accounting and auditing, or constitutes a fraudulent practice, the employee is expected to immediately report such information to the CEO. If the CEO is not immediately available and the employee feels the need to make an immediate report, he or she is expected to report the information to a member of the executive team.

All reports will be followed up promptly, and an investigation conducted. In conducting its investigations, Arkansas Support Network will strive to keep the identity of the complaining individual as confidential as possible, while conducting an adequate review and investigation.

Arkansas Support Network will not retaliate against an employee in the terms and conditions of employment because that employee: (a) reports to a supervisor, to the CEO, the Board of Directors or to a federal, state or local agency what the employee believes in good faith to be a violation of the law; or (b) participates in good faith in any resulting investigation or proceeding, or (c) exercises his or her rights under any state or federal law(s) or regulation(s) to pursue a claim or take legal action to protect the employee's rights.

Arkansas Support Network may take disciplinary action (up to and including termination) against an employee who in management's assessment has engaged in retaliatory conduct in violation of this policy.

In addition, Arkansas Support Network will not, with the intent to retaliate, take any action harmful to any employee who has provided to law enforcement personnel or a court truthful information relating to the commission or possible commission by Arkansas Support Network or any of its employees of a violation of any applicable law or regulation.

Supervisors will be trained on this policy and Arkansas Support Network's prohibition against retaliation in accordance with this policy.

**Policy:** It is the policy of ASN that the job performance of each employee should be evaluated periodically by the employee's supervisor.

**Comment:**

- (1) In divisions and programs in which employees work in teams to support individuals, employee performance will be evaluated as part of the team. The evaluation in these cases will focus on team performance as it relates to quality of life outcomes for the individual.
- (2) Supervisors working in areas in which individual performance evaluations are required should make every effort to complete a performance evaluation annually.
- (3) Supervisors will receive training concerning the evaluation process prior to completing employee appraisals. Particular attention will be given to setting goals and to the provision of training and support required by the employee to achieve those goals.
- (4) Upon completion of the written performance evaluation, the supervisor should meet with the employee to review the document. The employee must have the opportunity to include written comments in the completed appraisal, after which copies should be provided to the employee and to Human Resources Department for inclusion in the employee's personnel file.
- (5) Information derived from the evaluation process may be considered when making decisions affecting an employee including, but not limited to, decisions concerning training needs, pay, promotion, transfer, or continued employment.

**Policy:** It is the policy of ASN to pay employees by pay card or direct deposit on a regular basis and in a manner so that the amount, method, and timing of such payments comply with any applicable laws or regulations.

**Comment:**

- (1) Employees are normally paid bi-weekly on Fridays. If the regular payday occurs on a holiday, employees will be paid on the last working day prior to the regular payday.
- (2) In addition to their pay card or statement of direct deposit, employees will receive a statement showing gross pay, deductions, and net pay.
- (3) Unless required by law, no involuntary deductions will be taken from an employee's check. Employees may elect to have additional voluntary deductions taken from their pay. This will occur only after the authorization is received in writing.
- (4) Mistakes in payroll occasionally occur. Employees who discover a mistake in their pay, lose their pay card, or have it stolen, should notify the supervisor immediately. In the case of ASN administrative error, a prompt correction will be affected. In the case of theft or loss, the accounting department will attempt to stop payment on the pay card and reissue another payment to the employee. Theft or loss of a pay card, however, remains the responsibility of the employee, and ASN is not responsible for the monetary loss if payment cannot be stopped.
- (5) Non-exempt employees will be paid overtime compensation at the rate of one and one-half times their regular hourly rate for work in excess of forty hours during their normal work-week.
- (6) Employees who work on ASN observed holidays will receive premium pay (one and one-half times their regular rate of pay) for hours worked on the holiday regardless of the total number of hours worked during the work-week.



**Policy:** It is the policy of ASN to reimburse out of pocket travel expenses incurred by employees and board members in the line of duty in accordance with the guidelines established below.

**Comment:**

(1) Travel reimbursement within the program area: if in the course of duty, an employee must use his or her vehicle for business-related travel; this expense will be reimbursed at a rate not to exceed the IRS allowable reimbursement. This rate will be reviewed annually by the CEO and will be approved by the board of directors as part of the annual agency budget.

(2) Travel and expense reimbursement outside the program area: with prior approval of the CEO, board members and employees who travel outside of the program area for conferences, meetings, etc., on behalf of the agency, may be reimbursed for lodging, meals, and mileage. A per-diem rate approved by the board of directors in the annual budget may be paid in advance for meals. Lodging should be arranged and approved in advance and will be reimbursed at actual cost. Mileage reimbursement, where appropriate, will be reimbursed at the established agency rate.

(3) Reimbursement for travel will be made regularly on a schedule to be determined by the CEO and management team. All mileage must be approved by the supervisor or other CEO designee.

observed holiday will be paid as if the day were a regularly scheduled day. In addition these employees will receive a “floating” holiday to be taken, with the prior approval of their supervisor, at another time during the year.

(6) Employees not eligible (see comment #2) for holidays, and who are scheduled to work on an observed holiday will be paid one and one half times their normal pay.

**Policy:** It is the policy of ASN to provide benefits to all employees who meet the eligibility requirements.

**Comment:**

- (1) Health insurance: a group policy will be provided and all eligible employees will be offered the opportunity to participate. All employees working 30 or more hours per week are eligible to enroll on the first day of the month after a sixty (60) day waiting period. Agency participation in the plan will be reviewed periodically and agency participation will be based upon funding availability and cost of the plan.
- (2) Life insurance: all full-time employees will be offered the opportunity to participate in an agency life insurance plan.
- (3) Tax deferred annuity: all full-time employees who have completed one consecutive year of service are eligible to participate in the annuity plan. ASN will match the employee's contributions (\$1 to \$1) up to an amount equal to 5% of the employee's gross income.
- (4) Worker's Compensation: ASN provides worker's compensation insurance in the event of injury connected with work. Worker's compensation insurance is effective on the first day of employment. Employees must notify their supervisor when injury occurs.
- (5) Social Security: Social Security premiums are provided to all ASN employees subject to limitations contained in the Social Security Act.
- (6) Professional liability insurance: each employee, at his own discretion, is responsible for obtaining professional liability insurance.
- (7) Vacation: see policy 501:1 for policy and vacation eligibility.
- (8) Sick leave: see policy 701, attendance and punctuality and 702, absence from work.
- (9) Employees should contact human resources department for detailed information on all benefits and procedure for enrolling in optional plans. Some optional plans may qualify for premiums to be pre-taxable.

**Policy:** It is the policy of ASN to make a full and complete report of all incidents and/or accidents that occur during the provision of any service for which the organization is licensed and/or contracted. Such reports will be completed and filed according to existing standards as established and revised by licensing agencies and by the state of Arkansas.

**Comment:**

The following occurrences are deemed reportable incidents and should be treated as such. This list is not meant to be all-inclusive; whenever there is doubt about whether a situation rises to the standard of a “reportable” incident, ASN employees should err on the side of caution. It is always preferable to “over-report” than to neglect an incident that should have been reported.

1. Death of an individual receiving services.
2. The use of any restrictive intervention, including seclusion, or physical, chemical, or mechanical restraint on an individual receiving services.
3. Suspected maltreatment or abuse of an individual receiving services.
4. Any injury to an individual receiving services that:
  - Requires the attention of an Emergency Medical Technician, a paramedic, or physician
  - May cause death
  - May result in a substantial permanent impairment
  - Requires hospitalization
5. Threatened or attempted suicide by an individual receiving services.
6. The arrest of an individual receiving services, or commission of any crime by a service recipient.
7. Any situation in which the whereabouts of an individual receiving services is unknown for more than two (2) hours (i.e. elopement and/or wandering), or where services are interrupted for more than two (2) hours.
8. Any event where a staff member threatens an individual receiving services.
9. Unexpected occurrences involving actual or risk of death or serious physical or psychological injury to an individual receiving services.
10. Medication errors made by staff that cause or have the potential to cause serious injury or illness to an individual receiving services, including, but not

limited to, loss of medication, unavailability of medication, falsification of medication logs, theft of medication, a missed dose, wrong dose, a dose being administered at the wrong time, by the wrong route, and the administration of the wrong medication.

11. Any violation of an individual's rights that jeopardizes the health, safety, or quality of life of the individual.
12. Any incident involving property destruction by an individual receiving services.
13. Vehicular accidents involving an individual receiving services.
14. Biohazard incidents involving an individual receiving services.
15. An arrest or conviction of a staff member providing direct care services.
16. Any use or possession of a non-prescribed medication or an illicit substance by an individual receiving services.
17. Any other event that might have resulted in harm to an individual receiving services or could have reasonably endangered the health, safety, or welfare of the individual receiving services.

The procedures outlined in the addendum to this policy (see training appendix) are to be followed in the reporting of all incidents/accidents. These procedures are subject to change and are reviewed and updated regularly. As such, they are not to be considered as ASN policy, but as current guidelines. Employees should strive to maintain the most current version of these procedures.

**Policy:** It is the policy of ASN that positive programming techniques shall be the basis for all individual care, support, and treatment provided by the organization, and that non-aversive techniques be employed at all times.

**Comment:**

- (1) Because it is our belief that all persons have the right to receive supports and/or care in the least restrictive manner, and because it is our goal for individuals to acquire those skills which will allow them to work, recreate, and live in natural environments, it is our position that negative behavior management techniques are inappropriate for use by ASN staff.
  
- (2) In the absence of conclusive data to the contrary, behavioral decisions and practices should be based on the assumptions, which, if incorrect, will have the least dangerous effect on the individuals we serve.
  
- (3) Under no circumstance will the following actions be used on any individual served by any program within this agency
  - a) corporal punishment;
  - b) the use of aversive stimuli;
  - c) interventions that involve withholding nutrition or hydration, or that inflict physical or psychological pain;
  - d) the use of demeaning, shaming or degrading language or activities;
  - e) unnecessarily punitive restrictions including cancellation of visits as a disciplinary action;
  - f) forced physical exercise to eliminate behaviors;
  - g) punitive work assignments;
  - h) punishment by peers;
  - i) group punishment or discipline for individual behavior;
  - j) unwarranted use of invasive procedures and activities as a disciplinary action.

Any utilization of the actions listed above will be reported in accordance with the reporting procedures in the addendum to Policy 601:1 located in Appendix C of ASN's Personnel Policies.

- (4) Employees will follow the unique support plan and/or Positive Behavior Support Plan for the specific individual served to provide appropriate, respectful, and individualized behavioral support when necessary.

## **MANDATED REPORTERS**

**603:1**

**Policy:** The Arkansas Child Maltreatment Act and the Arkansas Adult Maltreatment Act deem all staff of Arkansas Support Network to be mandated reporters of any suspected adult or child abuse, neglect, exploitation, and maltreatment. Failure on the part of an employee to properly report suspected abuse, neglect, exploitation, and maltreatment to the appropriate party is a violation of these personnel policies.

**Comment:**

Employees should report suspected abuse, neglect, exploitation, and maltreatment to their immediate supervisor, complete all required documentation, and follow up to ensure that the appropriate hotline reports have been made. Employees who report a concern that is not adequately addressed by the employee's immediate supervisor should notify the supervisor's supervisor of the report.

**Policy:** It is the policy of ASN to require employees to report for work punctually and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance will not be tolerated because they disrupt work-flow and provision of service.

**Comment:**

- (1) Supervisors should notify employees of their starting and ending times. Employees are expected to be working and engaged in their duties at their scheduled starting time. Supervisors should record all absences and any tardiness or early departure exceeding ten minutes.
- (2) Employees should notify their supervisor as far in advance as possible when they are unable to report to work, know they will be late, or must leave early. Such notification should include a reason for the absence and an indication of when the employee can be expected to report for work. If the supervisor is unavailable, notification should be made to the human resources department.
- (3) Employees are to be compensated during authorized absences in accordance with ASN policies contained in this manual. Nonexempt employees (those employees subject to the minimum wage and overtime requirements of the fair labor standards act) will not receive compensation for time missed because of tardiness or early departure if the time exceeds ten minutes after starting time or before quitting time. Failure to properly notify management of any absence may result in loss of compensation during the absence and may be grounds for disciplinary action.
- (4) Employees who are delayed in reporting for work more than thirty minutes and who have not notified their supervisor of their expected tardiness may lose their right to work out the balance of the work day. In addition, employees who report to work without proper equipment or proper attire may not be permitted to work. Employees, who report for work in a condition considered not fit for work, whether for illness or any other reason, will not be allowed to work.
- (5) Employees are generally expected to report for work during inclement weather conditions. Employees who are unable to report because of weather conditions will be granted a paid vacation day providing they have earned vacation time available. Nonexempt employees who are late will be given a chance to make up their missed time if work schedules and conditions permit.
- (6) Employees will not be required or permitted to work for any period of time



before or after scheduled starting or quitting times for the purpose of making up time lost because of tardiness, unauthorized absence, authorized absence, or any other reason if the result will be that the employee works more than forty hours during the work week.

(7) Employees must report to their supervisor after being late or absent, give an explanation of the circumstances surrounding their tardiness or absence, and, when applicable, certify that they are fit to return to work. (see serious diseases, p. 209:1.) The supervisor should record the information in the employee's file and forward a copy to the human resources department. When appropriate, the supervisor should counsel the employee on the importance of good attendance and warn that excessive tardiness or absences will lead to discipline, up to and including termination. (see absence from work, p. 702:1 and disciplinary procedure, p. 808:1.)

(8) Unauthorized or excessive absences or tardiness will result in disciplinary action up to, and including termination. (see disciplinary procedure, p. 808:1.) An absence is considered unauthorized if the employee has not followed proper notification procedures or the absence has not been properly approved. Absences in excess of those allowed in ASN policy, and tardiness or early departure (i.e. beyond ten minutes of starting or quitting time) more than three times in a three- month period are generally grounds for discipline.

(9) Employees who are absent from work for three consecutive days without giving proper notice to ASN will be considered as having voluntarily quit. At that time, ASN will formally note the termination and advise the employee of the action by certified mail to the employee's last known address. (see termination of employment, p. 210:1.)

**Policy:** It is the policy of ASN to permit employees to be absent from work on a short-term basis under certain circumstances, including sickness or injury. For certain short-term, authorized absences, employees may be eligible for continuing compensation by ASN according to the guidelines below.

**Comment:**

(1) A short-term absence is generally any absence continuing two weeks or less. Absences longer than two weeks must be converted to a leave of absence if employment rights are to be maintained. (see absence from work, p. 702:3.)

a) An authorized short-term absence may include any of the following:

i) Sickness or injury resulting in the temporary disability of the employee or a member of his or her immediate family;

ii) Death, funeral, or estate settlement in the employee's immediate family;

iii) Urgent personal business which cannot be conducted outside of normal working hours;

iv) Jury duty or testifying as a subpoenaed witness in a judicial proceeding;

v) Religious observance required by the employee's religion;

vi) Emergency closing of ASN's operations; and

vii) Approved voluntary participation in community projects

b) In order for short-term absences to be considered authorized and potentially eligible for compensation, employees must obtain approval for the absences from their supervisor. Employees should give their supervisor as much advance notice of an absence as possible.

Unauthorized absences and absences in excess of that allowed under this policy, except for an approved leave of absence, will be considered abuses of this policy and are grounds for disciplinary action. (see attendance and punctuality, p. 701:1 and disciplinary procedure, p. 808:1.)

c) Employees will not be paid for approved absences, including sick leave, when the absence is covered by worker's compensation

payments.

d) Short-term absences resulting from jury duty and testifying as a subpoenaed witness will not be charged against an employee's available days of paid absence. Nonexempt employees will be paid their regular base rate (less any compensation from the court) for authorized absences to serve as a juror or subpoenaed witness, up to a limit of two work weeks per calendar year. Exempt employees are subject to the same two-week limitation, except they will also receive pay for any days that they serve as a juror or witness and in which they actually perform work. Exempt employees' pay rate for days in which they do not perform any work will also be net of the compensation paid by the court.

e) Employees returning from a short-term absence must report to their supervisor, give an explanation for the absence, and, when appropriate, certify that they are fit to return to work. The supervisor should make a record of the employee's absence and return to work and forward a copy to human resources department. When necessary, the supervisor should counsel the employee on the importance of good attendance and warn that excessive absences, regardless of cause, will lead to discipline, up to and including termination (see attendance and punctuality, 701:1 and disciplinary procedure, 808:1.)

f) ASN may require an employee submit medical certification to verify a claimed sickness or injury. Employees are prohibited from falsifying the reason for an absence. Employees who violate this policy will be subject to disciplinary action, up to and including termination and absence compensation will be stopped immediately. (see disciplinary procedure, 808:1)

g) Compensation during authorized absences will not be granted in advance, i.e. before days of paid absences have been accrued. In addition, authorized days off for short-term absences will not be considered as working time for calculating weekly overtime compensation.

2) Paid sick leave will accrue to all full-time employees at the rate of one day per month worked.

a) In the event of extended illness beyond accrued sick leave, an employee may remain on sick leave without pay upon authorization by the CEO.

b) Sick leave will accrue without ceiling limitation and may be authorized for use after the first ninety (90) days of full-time employment. Lump sum payment for sick leave will not be made upon termination.

c) Sick leave is to be used for personal illness of the employee or for illness of a member of the employee's immediate family, except sick leave may be granted if the employee has been exposed to a contagious disease and his presence on the job would potentially endanger other employees or the individuals served in the program.

(3) Maternity/paternity leave may be granted to full-time employees. Paid maternity/paternity leave will be limited to the accrued leave earned by the employee. Additional unpaid leave may be granted by the CEO. Employees on unpaid maternity/paternity leave are expected to return to work within ninety (90) days.

(4) Leave for a death in the immediate family (see functions of this manual, p. 101.1 (2) (c).) may be granted by a member of the executive team for full-time employees. Such leave will generally be granted for a period not to exceed five days. Any time taken in excess of the time granted to the employee will be considered unpaid leave.

(5) Leave required for temporary military training encampments, not to exceed fifteen days, will be granted to the employee with ASN paying the difference between the employee's regular salary and military salary. Emergency military call-ups are subject to the U.S. Selective Service Code for guaranteed reinstatement if the call-up does not exceed eighteen (18) months. These call-ups will be taken without pay.

(6) A leave of absence without pay may be granted by the CEO to full-time employees who have been continuously employed for a period of six months. The amount of time granted will be determined by the reason for the request and by work schedule requirements. Neither sick leave nor vacation will accrue to any employee while on leave without pay. Leave without pay may be used irrespective of whether the employee has sick leave accrued.

(7) Leave of absence for family care may be granted for the purpose of caring for a child, spouse, or parent who has a serious health condition. ASN may require a certification of the family member's serious health condition, both before the leave begins and on a periodic basis thereafter, by the family member's health care provider. Employees who utilize the leave of absence for family care will be required to use all accrued personal leave, vacation, and sick leave, while on leave for family care.

(8) ASN will continue to provide health insurance benefits to employees on leave for family care as required by law. Neither sick leave nor vacation will accrue to any employee while on leave for family care. (see family and medical leave act, appendix a.)

**Policy:** It is the policy of ASN that certain rules and regulations regarding employee behavior are necessary for the efficient operation of the organization and for the benefit and safety of other employees, the individuals served by the organization, and the community at large. Conduct that interferes with operations, that discredits the organization, or that is offensive to members of the community will not be tolerated.

Employees are expected to acquaint themselves with performance criteria for their jobs and with all rules, procedures, and standards of conduct established by the board of directors of Arkansas Support Network, Inc. Failure to comply with such rules, procedures, and standards and failure to maintain satisfactory work performance can constitute grounds for disciplinary action, up to and including dismissal from employment.

**Comment:**

- (1) Employees are expected to conduct themselves in a positive manner to promote the best interests of ASN. Such conduct includes:
  - a) Reporting to work punctually and being at the proper station ready for work at assigned starting times
  - b) Giving proper advance notice whenever unable to work or report on time
  - c) Complying with all ASN safety regulations
  - d) Smoking only at times and in places not prohibited by ASN rules
  - e) Wearing clothing appropriate for the work being performed
  - f) Eating meals only during meal breaks
  - g) Maintaining the work place in a neat and orderly fashion
  - h) Treating all individuals served, co-workers, and the community at large in a courteous and respectful manner
  - i) Reporting to management any suspicious, unethical, or illegal conduct by co-workers, individuals receiving services, etc.
- 2) The following conduct is prohibited and will subject the employee to disciplinary action, up to and including termination:

- a) Reporting to work under the influence of alcohol and/or illegal substances/narcotics/drugs
- b) Using abusive language toward a co-worker, an individual who receives services, a supervisor, or a member of the community
- c) Possessing firearms or other weapons on ASN property or any location where services are being provided
- d) Insubordination or refusing to follow management's instructions regarding a job related matter
- e) Fighting or assaulting a co-worker, an individual who receives services, a supervisor, or a member of the community
- f) Stealing or vandalizing company property or of the property of another employee or individual who receives services
- g) Falsifying or altering any ASN record or report, such as application for employment, time record, expense account, absentee report, or any documentation for services provided
- h) Unauthorized sleeping on the job
- i) Failure to wear assigned safety equipment or failure to abide by safety rules and policies
- j) Engaging in any form of sexual or other harassment (see productive work environment, p. 202.1.)
- k) Threatening or intimidating co-workers, individuals who receive services, supervisors, or community members

(3) Individuals who are placed under arrest for any offense will be suspended without pay until a determination concerning continued employment is made.

(4) In order to ensure both the safety of the individuals we support and the individuals we employ, as well as to safeguard our licensure status, individuals under investigation for child or adult maltreatment or who have been reported for suspected abuse, either to law enforcement or to ASN, will be suspended without pay pending the outcome of the investigation.

(5) Pursuant to DDS Certification Standards, employees will be terminated by evidence of an updated criminal record check validating a disqualifying criminal conviction.

**Policy:** It is the policy of ASN to provide cellular telephones to management staff for the purpose of increasing our efficiency and effectiveness when conducting agency business. All staff members who use cellular phones are directed to do so safely and to pay particular attention to safety guidelines. The use of personal cell phones at work and the personal use of business cell phones are discouraged.

**Comment:**

(1) While at work, employees are to exercise the same discretion in using personal cellular phones as they do for company phones. Excessive personal calls during the workday, regardless of the phone used, can interfere with employee productivity and be distracting to others. ASN encourages a reasonable standard of limiting personal calls during work time. Employees are therefore asked to make any other personal calls on non-work time where possible and to ensure that friends and family members are aware of the company's policy. Flexibility will be provided in circumstances demanding immediate attention. The company will not be liable for the loss of personal cellular phones brought into the workplace.

(2) Employees whose job responsibilities include regular or occasional driving and who utilize a cell phone for business or personal use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to the side of the road and safely stop the vehicle before placing or accepting a call or engaging in any form of text messaging. If acceptance of a call is unavoidable and pulling over is not an option, employees are expected to keep the call short, use hands-free options if available, refrain from discussion of complicated or emotional issues and keep their eyes on the road. Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area.

(3) Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business use, are also expected to abide by the provisions above. Under no circumstances are employees allowed to place themselves at risk to fulfill business needs.

(4) Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

(5) As with any policy, management staff expected to serve as role models for proper compliance with the provisions above and is encouraged to



regularly remind employees of their responsibilities in complying with this policy. Violations of this policy will be subject to the highest forms of discipline, including termination.

(6) All employees are expected to comply with all traffic laws concerning cell phone use while driving.

## **PERSONAL APPEARANCE OF EMPLOYEES**

**803:1**

**Policy:** It is the policy of ASN that each employee's dress, grooming, and personal hygiene should be appropriate to the work situation.

**Comment:**

- (1) Radical departures from conventional dress or personal grooming and hygiene standards are not permitted.
- (2) Suggestive attire is not permitted.
- (3) Any employee who does not meet the standards of this policy will be required to take corrective action, which may include leaving the work premises.

**Policy:** It is the policy of ASN to prohibit its employees from engaging in any activity, practice, or act which conflicts with, or appears to conflict with, the interests of ASN or the individuals we serve. Since it is impossible to describe all of the situations which may cause or give the appearance of a conflict of interest, the prohibitions included in this policy are not intended to be exhaustive and only include some of the more clear-cut examples.

**Comment:**

- (1) Employees are expected to represent ASN in a positive and ethical manner and have an obligation both to avoid conflicts of interest and to refer questions and concerns about potential conflicts to their supervisor.
- (2) Employees are not to engage in, directly or indirectly, either on or off the job, any conduct which is disloyal, disruptive, competitive, or damaging to ASN.
- (3) Employees are not to accept any employment relationship with any organization which offers similar services to persons with disabilities without the prior approval of the CEO. This restriction on employment includes serving as an advisor or consultant to any such organization, unless that activity is conducted as a representative of ASN.
- (4) Employees and their immediate family are not to accept loans from any person served by ASN. Accepting gifts, except those of nominal value, from any person served by ASN is also forbidden.
- (5) Conflicts of interest may arise in the relations of directors, officers, and management employees with any of the following third parties:
  - Persons and firms supplying goods and services to ASN.
  - Persons and firms from whom ASN leases property and equipment.
  - Persons and firms with whom ASN is dealing or planning to deal in connection with the gift, purchase or sale of real estate, securities, or other property.
  - Competing or affinity organizations.
  - Donors and others supporting ASN.
  - Agencies, organizations, and associations which affect the operations of family members, friends, and other employees.

**Policy:** It is the policy of ASN that the internal business affairs of the organization, particularly confidential information and all information concerning individuals and families served by ASN, represent proprietary assets that each employee has a continuing obligation to protect.

**Comment:**

(1) Information designated as confidential is to be discussed with no one outside the organization and only discussed within the organization on a “need to know” basis. In addition, employees have a responsibility to avoid unnecessary disclosure of non-confidential, internal information.

(2) All media inquiries and other inquiries of a general nature should be referred to the CEO. All press releases, publications, speeches, or other official declarations must be approved in advance by the CEO. Inquiries seeking information concerning current or former employees should be referred to the human resources department.

(3) All individual/family served information in ASN records is confidential, and as such, may only be released as permitted by regulation or under proper authorization of the individual or, where appropriate, the guardian, and then only upon written request. An agency authorization for release of information form will be completed for each request for information with a copy giving the date that release was authorized, and the date that the information was sent will be recorded in the individual/family’s main file.

(4) Employees and volunteers will be trained in the area of confidentiality and kept aware that confidentiality is to be practiced both on and off duty.

(5) At all times, ASN employees and volunteers will respect the rights of those individuals/families served by the agency. The following is a summary of these rights that all employees/volunteers must adhere to:

a) Employees who discuss information with others (friends, family, community, etc.) concerning an individual’s past or present diagnosis, history of activities, or other information for any other reason than direct programmatic reporting is in violation of the individual/family’s right to confidentiality and could be immediately terminated.

b) Employees/volunteers must act in a professional manner at all times when relating information concerning an individual/family served by the agency.

- c) With the permission of the family/individual being served, ASN encourages stories to be related concerning an individual/family living in the community as long as the information given is in a manner that reflects the individual/family in a positive manner.
- (6) It is the responsibility of the CEO to ensure that all staff, board members, and volunteers understand that immediate termination may result if confidentiality towards those served by this agency is not maintained.

**Policy:** It is the policy of ASN that access to all files concerning families and individuals served by Arkansas Support Network will be restricted to those employees who must use the files to perform their jobs. All other staff that may need occasional information from a private file will be required to request such information as is needed from their supervisor.

**Comment:**

Anyone entering the files of a family or individual served by ASN must use the following procedure.

- a) Person entering file must log or sign in (name, the date, and the time that the file is removed) and the name(s) of the individuals whose file(s) is accessed.
- b) The time each file is accessed should also be noted.

**Policy:** ASN will employ reasonable and appropriate administrative, technical, and physical safeguards to protect personal identification information.

**Comment:**

- (1) ASN will comply with both the letter and the spirit of federal and state privacy legislation.
- (2) The use and access to personal identification information will be for the purposes of conducting agency business and is granted only to the extent necessary.
- (3) Information concerning individuals and families served by ASN represent proprietary assets that each employee has a continuing obligation to protect.
- (4) Employees are required to ensure that all records are safeguarded and protected from theft/damage while in their possession.
- (5) ASN will periodically offer elective training opportunities for employees in safeguarding personal identification information.

**Examples of failing to safeguard personally identifiable information:**

- Storing electronic files containing personally identifiable information on a computer or access device (flash drive, CD, disc, etc.) that other people have access to (not passwordprotected)
- Leaving a casefile unattended in one’s office, vehicle, residence, etc.

This list does not encompass all failures to safeguard personally identifiable information but alerts employees to situations that must be avoided.

**Policy:** It is the policy of ASN that all employees are expected to comply with Arkansas Support Network's standards of behavior and performance, and that any noncompliance with these standards must be remedied.

**Comment:**

- (1) The following employee behavior may be cause for disciplinary actions up to and including termination:
  - a) Failure to perform assigned duties
  - b) Failure to work cooperatively with supervisors, individuals served, staff members, family members, and members of the community
  - c) Excessive absenteeism or tardiness
  - d) Dishonest or illegal behavior
  - e) Use of alcohol or illegal drugs during worktime
  - f) Any conduct that would be detrimental to the health/safety of the person receiving services, staff, or the agency
  - g) Any breach of confidentiality as described in ASN policy 804.1
  - h) Other good cause to be determined by the CEO and/or board of directors
  - i) Upon the occurrence of any offense described above which does not result in immediate termination, the employee will be provided a written warning by his immediate supervisor, and a copy will be entered in the employee's file. Repeated warnings may result in dismissal
  - (j) Failure to comply with training requirements in Section 206 or mandatory HR personnel documentation requirements will result in suspension, without pay, of an employee for up to 30 days pending the remedy of the compliance issue. If the employee fails to comply with these requirements, they will be terminated after the 30 day suspension.
- 2) Cause for immediatedismissal:
  - a) An employee may be dismissed without warning by the CEO for



behavior that jeopardizes the immediate health and or safety of a person/family receiving services, another staff member, or a member of the community.

- b) An employee may be dismissed without warning by the CEO for behavior that jeopardizes the agency's public image or its ability to operate in a programmatically and fiscally sound manner in the community.

Arkansas Support Network, Inc. specifically retains the right to dismiss an employee without pursuing progressive disciplinary procedures when it is determined that the employee's conduct or job performance warrants immediate dismissal. In addition, not every step must be taken in each case.

All formal discipline will be made a permanent part of the employee's personnel file. Certain circumstances may require remedial action for poor performance such as a performance improvement plan, reassignment and/or additional training.

#### **A. Verbal Reprimand**

The employee should clearly understand the gravity of the action and that the warning is disciplinary in nature. When presenting an oral reprimand, the supervisor should specifically point out the error or problem.

#### **B. Written Reprimand**

When the supervisor determines that an employee has failed to respond to an oral reprimand or has committed an infraction of sufficient severity to warrant more severe disciplinary action, a written reprimand may be prepared and issued to the employee. To achieve its intended purpose of addressing and resolving issues of job-related conduct or job performance of employees, the written reprimand will, at a minimum:

- (1) state explicitly the inappropriate job-related conduct or unacceptable job performance of the employee;
- (2) describe any previous efforts to make the employee aware of the need for a change in conduct or job performance pertinent to the situation or event;
- (3) state precisely what corrective measures are expected, and within what time frame, if appropriate; and
- (4) specify the adverse personnel actions the employee may expect to be taken.

#### **C. Suspension without Pay**

An employee may be suspended without pay as a disciplinary measure for those causes that require more severe action than a written reprimand but are not considered sufficiently serious to warrant dismissal from employment. Such suspension may also be appropriate if the action of the employee would normally be cause for dismissal but mitigating circumstances are present which indicate that it is highly unlikely the employee would repeat the behavior.

Program directors and similar administrative units are authorized to suspend an employee without pay for up to five (5) working days. In situations involving employee fraud, theft or dishonesty, an employee may be suspended without pay for more than five working days with the approval of the executive director. The employee will be notified in writing of the suspension without pay, the reason for the suspension, and the beginning and ending dates of the suspension. The employee will be given an opportunity to respond orally when notified and/or within twenty-four (24) hours in writing, and the suspension will not begin until the employee's response, if any, has been received and considered.

Depending on the severity of the problem, temporary suspension without pay may be the appropriate disciplinary action in circumstances including, but not limited to:

- (1) repetition of actions for which written reprimand(s) had been previously issued;
- (2) insubordination;
- (3) use of alcoholic beverages or illegal drugs or abuse of legal drugs on duty, or reporting for duty under the influence of same; or
- (4) other job-related conduct or job performance that interferes with fulfilling job performance standards or the job performance of other personnel.

Temporary suspension without pay is designed to give program directors greater flexibility in resolving problems with job-related conduct or job performance but it is neither an employee right nor a required step in the disciplinary process. The program director is not obligated to use suspension without pay as a form of discipline. The failure to use suspension without pay before terminating an employee is not a basis for an employee appeal of his or her dismissal from employment.

#### **D. Transfer, Demotion and/or Salary Reduction for Disciplinary Reasons**

The CEO or executive team may demote and/or reduce the salary of an employee for disciplinary reasons because of work performance or job-related conduct that does not meet established standards. Also, the Program Director or similar administrative unit, after consulting with the human resources department, may transfer, demote and/or reduce the salary of an employee for disciplinary reasons because of work performance or job-related conduct that does not meet established standards.

Demotion means a change in duty assignment to a position of lower level. Such reduction in level will normally be accompanied by a decrease in salary rate. Transfer means a reassignment and/or change in duty assignment to a position of similar level. Reduction in salary may accompany a demotion or may be implemented without a change in title or duty assignment.

The Program Director or similar administrative unit will notify the employee in writing of the transfer, demotion and/or reduction in pay, the reasons for this action, and the effective date of the action. The employee will be allowed to respond orally and/or in writing within 24 hours of receiving the notice to the person who issued the notification. The action will not become effective until the employee's response, if any, has been received and considered.

### **3. TERMINATIONS**

#### **A. Voluntary Termination**

Voluntary terminations include resignations and retirement. A timely notification is expected from employees who voluntarily terminate employment with Arkansas Support Network, Inc. Failure to provide this written or verbal notice could affect consideration for future employment with ASN

#### **B. Dismissal/Termination**

Dismissal from employment involves the discharge of an employee due to unsatisfactory job performance or misconduct. Certain rule infractions may justify immediate dismissal. Program Directors or similar administrative units are authorized to initiate an action to terminate an employee. The Program Manager is responsible for coordinating disciplinary actions and dismissals with his/her Program Director.

The employee must be given written notice of the dismissal. The prescribed personnel action form confirming the dismissal must be processed through administrative channels. The employee will be given the opportunity to respond orally and/or in writing within 24 hours of receiving the notice. If the employee does not respond within 24 hours, the dismissal is automatically effective.

#### **C. Reinstatement**

If it is subsequently determined that the dismissal from employment was made without adequate cause, the employee may be reinstated in the same position held at the time of dismissal and may be paid back pay to the date of the dismissal. A lesser form of discipline may be imposed if warranted.

#### **D. Restitution**

The employee being dismissed may be required to make restitution for damages to property or equipment, for theft, for unauthorized purchases or payment of wages, for unauthorized travel expenses, or for other illegal or improper actions. If restitution is not made under the terms and conditions mandated, the employee may be subject to legal action.

### **E. Eligibility for Rehire**

Employees who are in good standing when their employment at Arkansas Support Network, Inc. ends may be reemployed to do the same job or another job for which they are qualified.

Dismissed employees may appeal by following the grievance procedure. (see grievance procedure, p. 902.1.)

**Policy:** It is the policy of ASN to maintain a work place that is free from the effects of drug and alcohol abuse.

### **OBJECTIVES**

- Maintain a safe and healthful working environment for our employees, consumers, visitors, vendors, contract employees, and the general public.
- Prevent personal injuries and to protect the property of Arkansas Support Network, Inc. our employees, consumers, visitors, contract employees and the general public.
- Minimize absenteeism and tardiness, to improve job performance and to insure quality of service.
- Protect the reputation of Arkansas Support Network, Inc. and our employees within the community, professional organization, and among our consumers and their families.
- Comply with the requirements of enacted local, state and federal drug abuse laws such as the drug free workplace act of 1988, the Americans with Disabilities Act, Arkansas Act 1552 of 1999, and Arkansas Act 750 of 2003.

### **Definitions**

- a. **Arkansas Support Network, Inc. premises:** any agency property, offices, facilities, land, buildings, structures, fixtures, installations, automobiles, buses, vans, or leased vehicles. Agency premises also include homes and land of individuals receiving services while in the course of business related to the function of this organization.
- b. **Covered Employee:** an employee or applicant who is required to comply with this policy, either through the authority of the agency or under state-mandated standards.
- c. **Drug paraphernalia:** any unauthorized material or equipment or item used or designed for the use in testing, packaging, storing, injecting, ingesting, inhaling, or otherwise introducing an illegal drug into the human body.
- d. **Illegal drug:** drugs, or the synthetic or the generic equivalent of drugs which are illegal under federal, state and local laws, including but not limited to, marijuana,

opiates, hashish, cocaine, methamphetamines, and any other drug-like substance, of which the use, possession, or sale is unlawful. This also includes any legal drug that is being used in a manner or for a purpose other than the one prescribed.

- e. **Positive result:** relating to 1) drugs or traces of drugs found in the body as a result of a positive drug test, and 2) alcohol or intoxicating beverages. The cutoff concentration used for determining the presence of drugs is the amount determined by the food and drug administration (FDA). An employee will be considered positive for alcohol if registering 0.04 (grams of alcohol per 210 liters of breath) or greater, as measured by a breath-testing device.
- f. **Refusal:** an activity that includes, but is not limited to, failing to provide a breath or urine sample or producing an insufficient volume without valid medical explanation; tampering, substituting, or adulterating a specimen; leaving the scene of an accident or collection facility without just cause prior to submitting to a test; failing to cooperate with any part of the testing process.

## 2) Comments:

- a. Illegal drugs: the use or possession of illegal drugs on Arkansas Support Network, Inc. Premises or during agency work hours; the sale, distribution, purchase, or transfer of illegal drugs at any time or place, or attempt to perform any of these acts; or the possession of illegal drug paraphernalia by employees on Arkansas Support Network, Inc. premises or during agency work hours violate of this policy.
- b. **Alcoholic or intoxicating beverages:** the use or possession of alcohol or intoxicating beverages on Arkansas Support Network, Inc. property during work hours is a violation of agency policy. Additionally, a breath alcohol concentration (BAC) at 0.04 or above during working hours is a violation of this policy.
- c. **Legal drug:** any covered employee undergoing medical treatment; including the use of a prescribed drug or medication that may affect the employee's ability to perform job-related functions must notify the agency director or designated employer representative (DER) and have a doctor sign the physician's statement indicating the type of drug taken and possible side effects. The statement shall be submitted to the agency director or der. A sample statement can be found in appendix i.
- d. **OTC drugs: over-the-counter drugs:** (OTC) have various side effects and all covered employees should take precaution and read all information about the medication they are considering for use. Any covered employee exhibiting behavior while taking medication, which is

determined by agency to limit the employee's ability to safely perform the employee's essential job functions or which creates a substantial risk or significant harm to others, may be required to remain off work until the risk is eliminated. Arkansas Support Network, Inc. reserves the right to have a licensed physician examine an employee under these circumstances.

- e. **Illegal drug-related convictions:** any covered employee convicted of a drug-related offense, regardless of whether or not the violation occurs on Arkansas Support Network, Inc. premises or on the premises of a workplace controlled by the Arkansas Support Network, Inc. will be terminated. "conviction" means a finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body with the responsibility to determine violation of federal, state or local criminal statutes. The employee must report such a conviction no later than five (5) days after the conviction.
  
- f. **Substance abuse testing:** Arkansas Support Network, Inc. Reserves the right to request employees and applicants for covered positions to submit to urine drug tests, or other examinations to determine the use of illegal drugs, alcohol or the abuse or misuse of legal drugs prohibited by this policy, or to determine an employee's fitness for duty. Urine specimens are analyzed for the following drugs/metabolites:
  - i. Amphetamines (including methamphetamines)
  - ii. Cocaine
  - iii. Marijuana/THC
  - iv. Opiates (including codeine, heroin, and morphine)
  - v. Phencyclidine (PCP)
  - vi. Barbituates
  - vii. Propoxyphene
  - viii. Methaqualone
  - ix. Benzodiazepine
  - x. Methadone

**Tests will be conducted under the following circumstances:**

- g. **Pre-employment testing:** pre-employment drug testing is in effect for all applicants considered for hire in a covered position on or after November 1, 2008.
  
- h. **Random Testing:** random testing ensures that all covered employees have an equal chance of being selected. Random tests are unannounced. Random drug testing will be conducted on all covered employees according to Arkansas Department of Human Services, Division of Developmental Disabilities Services certification standards

for ACS waiver services. Employees will be identified by their driver's license number, social security number, or other employee identification. A trained technician will collect the specimens and send the sealed samples to an approved laboratory for analysis.

- i. **Reasonable suspicion testing:** Arkansas Support Network, Inc. may request that a covered employee submit to a drug and alcohol test when a supervisor has a reasonable belief that an employee is using or is under the influence of illegal drugs or alcohol while on duty. This belief is based on specific, objective and articulable facts or signs. The grounds of suspicion must be based on direct observation of behavior, appearance, speech or smell that is usually associated with drug or alcohol use.

All supervisors who will be authorized to make reasonable suspicion determination shall obtain training through the appropriate agency approved to train for the subject. This training shall include, but is not limited to, the aspects of physical, behavioral, speech and performance indicators of probable alcohol and/or drug use. Upon establishing a reasonable suspicion, the supervisor must conduct a private, face-to-face interview with the employee. Within 24 hours the supervisor shall complete a reasonable suspicion documentation form (appendix ii) of his or her observations. The report is forwarded to the executive director as soon as possible. This documentation will remain on file in the employee's drug testing record. The employee may receive a copy upon request. The employee may be transported to the collection facility by an agency representative.

- j. **Post-accident testing:** the following conditions will require a covered employee to submit to a drug and alcohol test:
  - i. **An automobile accident:** in an Arkansas Support Network, Inc. vehicle causing damage that requires the vehicle to be towed or taken out of service for repair, or where there is personal injury or loss of life.
  - ii. If an employee suffers an occupational injury (requiring treatment from a doctor, nurse or paramedic).
  - iii. If a serious accident or incident occurs in which safety rules or procedures were violated.
  - iv. An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Drug tests must be administered within 24 hours of the accident. Nothing in this section shall require



the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

- k. **Work related injury testing:** under Arkansas Support Network, Inc.'s authority, a covered employee must submit to urine drug testing and breath-alcohol testing following a work-related injury that causes a claim to be filed with Arkansas Support Network, Inc. Workers' compensation trust fund's third-party administrator. The results of these non-regulated collections will be submitted to the appropriate claims-determining body in a confidential manner. Employees testing positive for drugs or alcohol may be denied workers' compensation benefits.
  
- l. **Specimen Collection:** specimen samples shall be collected with due regard to the privacy of the donor providing the sample and in a manner reasonably calculated to prevent substitution or adulteration of the sample. Specimen collection shall be performed consistent with urine collection procedures provided for by in U.S. Department of transportation regulations compiled in 49 CFR part 40. All samples will be collected with split specimens for second testing in the event a second test is requested. Collection of a specimen shall be observed only if the professional collection specialist has reason to believe the individual providing the specimen has attempted to tamper with or adulterate a specimen.
  
- m. **Cost of Testing:** Arkansas Support Network, Inc. shall pay for the cost of all drug and alcohol tests, which it requires of employees. An employee or applicant will pay the cost of any additional drug or alcohol tests not required by the agency.
  
- n. **Consequences for Policy Violations:**
  - i. Applicants for Employment: any applicant who tests positive for illegal drugs will receive no further consideration for employment.
  
  - ii. Positive Test Results: a positive test result is a violation of this policy. Any employee who tests positive for any substance by this policy will be terminated from employment.
  
  - iii. Refusal to Submit to Substance Abuse Testing: any employee who refuses to submit to substance abuse testing is in violation of this policy will be terminated from employment.
  
  - iv. Conviction of Illegal Drug Offense: any employee convicted under federal, state, or local law of any offense relating to illegal drugs will be terminated from employment.

- v. Tampering or Adulterating Specimens: any employee whom the professional collector for Arkansas Support Network, Inc. believes has or has attempted to tamper, adulterate, dilute, or switch any specimen to be submitted for drug or alcohol testing will be subject to termination.
  
- vi. Possession of Illegal Drugs /Alcohol While on the Job: any employee who has violated any part of this policy and has been found with illegal drugs and or alcohol in their possession while on duty will be terminated from employment.
  
- o. **Confidentiality:** Arkansas Support Network, Inc. testing laboratory, MRO, professional collector or their agents who receive or have access to information concerning alcohol or drug tests will keep all information confidential. Release of such information under any other circumstances shall be solely pursuant to a written consent form (appendix iii) signed voluntarily by the employee or applicant tested, except where such release is compelled by a hearing officer or a court of competent jurisdiction following an appeal, or where deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding.

**Policy:** It is the policy of ASN to regulate employee use of social media as it pertains to the policies within this personnel manual.

Comment:

Arkansas Support Network recognizes that many of its employees use social media such as Facebook, Twitter, LinkedIn, YouTube and Instagram, to name a few. However, employees' use of social media could become a problem if it:

- Interferes with the employee's work
- Is used to harass or discriminate against co-workers or the individuals and families we support
- Creates a hostile work environment
- Divulges confidential information about our agency or the people we support; or
- Harms the goodwill and reputation of our organization

(1) Definition: Social media includes, but is not limited to: Facebook, Instagram, Twitter, LinkedIn, and media outlets used to distribute individual information.

(2) Because of the confidential nature of ASN services, it is inappropriate for an employee to describe activities engaged in with a specific individual receiving services or to display pictures of an individual receiving services without the express written consent of that individual or his/her guardian.

(3) If consent to publicize has been achieved, proof of that consent must be presented to the Director of Employment and Policy concurrent with the publication of the statement or photograph.

(4) Failure to get consent before publication of a photograph or a statement regarding a specific individual receiving services will result in a request to remove the offending item from an individual's social media feed and may result in disciplinary action, up to and including termination based on the seriousness of the offense.

(5) Unless given written consent, you may not use the ASN logo or any organizational material in your posts.

(6) Don't forget that you are responsible for what you write or present on social media. You can be sued by other employees or any individual that views your social media posts as defamatory, harassing, libelous, or creating a hostile work environment.

(7) All organizational policies that regulate off-duty conduct apply to social media activity including, but not limited to, policies related to illegal harassment, code of conduct, nondiscrimination, and protecting confidential and/or proprietary

information.

(8) Employees may not use organizational equipment for non-work-related activities without permission. Personal use of our computers, including personal social media activities, should not interfere with your duties at work. Our facilities may be monitored to ensure compliance with this restriction.

**Policy:** It is the policy of Arkansas Support Network (ASN) to take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities and programs, and to ensure meaningful and accurate communication with persons with LEP and their authorized representatives involving their plan of service.

**Comment:**

- (1) Persons with LEP will include individuals whose primary language is one other than English, as well as those with hearing impairment, those using assistive technology, or as otherwise indicated.
- (2) All interpretation, translation and other services needed to comply with this policy will be provided without cost to the person being served, and individuals with LEP and their families will be informed of the availability of such assistance.
- (3) Language assistance will be provided through the use of competent bilingual personnel, staff interpreters, contract interpreters or formal arrangements with local organizations providing interpretation or translation services, or technology and telephonic interpretation services.
- (4) All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of interpreters and written translations of documents.
- (5) ASN will conduct a regular review of the language access needs of the individuals served, as well as update and monitor the implementation of this policy as necessary.
- (6) ASN will regularly assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, ASN will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from individuals and community organizations, etc.

**Policy:**

It is the policy of ASN to maintain a safe working environment for all employees. Employees are expected to conduct themselves in a manner that promotes safety and avoid activities that provide undue risk.

**Comment:**

- 1) While at work, employees are not to engage in any activities that create an unsafe environment for themselves, co-workers, and/or individuals or families served.
- 2) Employees must refrain from engaging in unsafe activities while in the work environment, during work-related transportation, while out in the community, and in any other setting while working for ASN.
- 3) Activities that are considered unsafe and not allowed while working include, but are not limited to, disobeying traffic laws, accessing restricted areas, and utilizing a trampoline, to name a few.
- 4) ASN employee should not utilize a trampoline while working for ASN.
- 5) Employees who are injured from the use of a trampoline while working for ASN will be solely responsible for all liabilities that result from such actions. Worker's Compensation will not cover an accident caused by a trampoline.
- 6) Violations of this policy will be subject to the highest forms of discipline, including termination.
- 7) All employees are expected to comply with all request concerning safety issues.

**Policy:**

It is the policy of ASN to ensure employees operate within and maintain an appropriate work environment.

**Comment:**

- 1) Each employee of ASN must conduct their assigned duties in the appropriate assigned work environment.
- 2) Due to the community-based nature of ASN's work, employees are expected to work in a variety of environments, including but not limited to individuals' home, doctor's offices, state offices, community centers, libraries, local business, school environments, court setting, and all other locations necessary to fully support the individual being served.
- 3) For employees providing direct support services, the assigned work environment is the home and community of the individual receiving services.
- 4) An employee providing direct support services is strictly forbidden from taking the individual receiving services to the employee's home or personal activities without written approval from the division or department director.
- 5) ASN employees assigned to administrative, managerial, or supervisory duties and not engaged in direct services must conduct all work assignments in the appropriate environments as assigned by their direct supervisor.

**Policy:** It is the policy of ASN to maintain personnel records for employees and past employees in order to document employment-related decisions and to comply with government record keeping and reporting requirements.

**Comment:**

- (1) An individual personnel file will be maintained on each employee. It will contain but not be limited to the following:
  - a) Access sheet stating those persons who have entered the file, position, reason, and date
  - b) Application for employment
  - c) Job description signed by employee and supervisor
  - d) Transcripts, certificates, and other documentation supporting the employee's knowledge, skills, abilities, and qualifications for the position
  - e) Letters of recommendation
  - f) Training form
  - g) Other data pertinent to the employment and performance of the employee
  - h) Reference forms
  - i) Social services central registry form
  - j) Arkansas state police checks
  - k) Adult protective background checks
  - l) Child maltreatment background checks
  - m) FBI background checks
  - n) Driving record (when required by position)
  
- (2) Employees may inspect their own personnel records and may copy, but not remove, documents in their file. Such an inspection must be requested in writing



to the human resources department and will be scheduled at a mutually convenient time. The only exception will be in regards to letters of reference which will be excluded from employee inspection. All inspections must be conducted in the presence of a designated member of the human resources department.

(3) Employees who feel that any file material is incomplete, inaccurate, or irrelevant may submit a written request to the human resources department that the files be revised accordingly. If such a request is not granted, the employee may place a written statement of disagreement in the file and pursue the matter further using the regular grievance procedure. (see grievance procedure, p. 902:1.)

(4) Only management employees who have employment-related need-to-know for information about another employee may inspect the files of that employee. Such an inspection must be approved by the human resources department and should be recorded in the file inspected.

(5) Employees are to refer all requests from outside ASN for personnel information concerning applicants, employees, and past employees to the human resources department. The human resources department normally will release personnel information only in writing and only after obtaining the written consent of the individual involved. Exceptions may be made to cooperate with legal, safety, and medical officials who have a need to know specific employee information. In addition, exceptions may be made to release limited general information, such as employment date and position held.

## GRIEVANCE PROCEDURE

(Updated 2/19/2024)

### Purpose

Arkansas Support Network recognizes that there are times when the need arises for employees to express concerns or complaints around safety, management, and working conditions in a formal manner. The following procedures will ensure that employees receive a fair and unbiased review of workplace concerns.

### Procedures

#### *Written complaint to Supervisor and Human Resources*

If the employee has discussed their concerns or complaints with their direct supervisor and are unhappy with the outcome, the employee may submit a written complaint to his or her immediate supervisor and human resources to include:

- The nature of the complaint.
- Detailed information including evidence of the issue, witnesses, related policies, etc.
- The remedy or outcome desired.

If the employee complaint is regarding illegal harassment, discrimination or retaliation, or the employee's direct supervisor, the employee should submit the written complaint directly to human resources at [employeesupport@puzzlehr.com](mailto:employeesupport@puzzlehr.com).

All employee complaints/concerns will be promptly investigated. Employees will be advised of the findings and conclusions. All employees are expected to cooperate fully in such investigations.

### Recordkeeping

Human resources will maintain records of the grievance process confidentially and securely.

### Retaliation

Retaliation against any employee for making a complaint under this procedure or for providing information during an investigation is strictly prohibited, will not be tolerated, and is a violation of this procedure.

**Policy:** It is the policy of ASN that all students, interns, and volunteers associated with Arkansas Support Network will only provide services subsequent to a written agreement between ASN and the unpaid worker.

**Comment:**

- (1) The written agreement between the parties will establish the services, supervision, training, and administrative services to be provided.
- (2) Students, interns, and volunteers will follow the same employment practices established for employees as outlined in the personnel manual.
- (3) Before an unpaid worker is allowed to provide direct services, orientation to the policies and procedures will be provided and a job description will be available.

## Appendix A

### Family and Medical Leave Act of 1993 (FMLA)

#### Summary

The family and medical leave act became effective on August 5, 1993. The wage and hour division of the U.S. Department of Labor's employment standards administration administers and enforces FMLA for all private, state and local government employees, and some federal employees.

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons. The law contains provisions relating to employer coverage; employee eligibility for the benefits of the law; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and protections for employees who request or take FMLA leave. In addition, the law includes certain employer record keeping requirements.

An eligible employee may also take up to 26 work weeks of leave during a "single 12-month period" to care for a covered service member with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the service member. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons.

#### Purposes of the FMLA

The FMLA allows employees to balance their work and family life by taking reasonable unpaid leave for certain reasons. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers, and which minimizes the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women. The enactment of the FMLA was predicated on two fundamental concerns: the needs of the U.S. workforce and the development of high-performance organizations.

Increasingly, American children and growing numbers of the elderly are dependent on working family members who spend long hours on the job. When family emergencies arise, requiring employees to attend to their seriously-ill children or parents, or to newly- born or adopted infants, or even to their own serious illness, workers need reassurance that they will not need to choose between their job security and meeting their personal and family obligations or tending to vital needs at home.

#### Questions

Q: Does the law guarantee paid time off?

No. FMLA leave is generally unpaid leave. However, in certain circumstances the use of accrued paid leave such as vacation or sick leave may be substituted for the

unpaid leave required by the law.

Q. How much unpaid leave am I entitled to?

If you are an "eligible" employee of a covered employer, you are entitled to 12 weeks of leave for certain family and medical reasons during a 12-month period.

Q: Am I entitled to any paid leave while on FMLA leave?

The law permits you to substitute accrued paid leave under certain conditions, or your employer may require you to substitute paid leave.

Q: What if an employer already provides paid leave for the purposes covered by FMLA?

FMLA is intended to encourage generous family and medical leave policies. For this reason, the law does not diminish more generous existing leave policies or laws, though employers are entitled to conform their employment policies and practices to the FMLA's requirements.

Q: Who is considered a "family member" for purposes of taking FMLA leave?

An employee's spouse, son or daughter, and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law."

Q: Does FMLA leave have to be taken in whole days or whole weeks, or in one continuous block of time?

The FMLA permits leave for birth or placement for adoption or foster care to be taken intermittently; that is, in blocks of time or by reducing the normal weekly or daily work schedule subject to approval by the employer. Leave for a serious health condition may be taken intermittently when "medically necessary."

Q: Is there a limit to the number of times FMLA leave can be taken in one year?

No. An employee is entitled to take up to 12 weeks of leave in a 12-month period for any of the family and medical reasons that qualify for FMLA leave, without limitation.

Q: Can I take FMLA leave for visits to a therapist, if my doctor prescribes the therapy?

Yes. FMLA permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for therapy treatments ordered by a doctor such as, for example, physical therapy after a hospital stay, or for treatment of severe arthritis. "Continuing treatment" includes a single visit to a

health care provider that results in a regimen of continuing therapy under the supervision of the health care provider.

Q: Are there any employees who are not covered by this law?

Yes. It's been estimated that about 60 percent of U.S. Workers (and about 95 percent of U.S. Employers) are not covered by the law. To be eligible for FMLA benefits, an employee must:

Work for a covered employer;

Have worked for the employer for at least a total of 12 months; Have worked at least 1,250 hours over the prior 12 months; and,

Work at a location where at least 50 employees are employed by the employer within 75 miles.

Q: What about spouses who work for the same employer?

If a husband and wife work for the same employer, they may be limited to a combined total of 12 weeks of FMLA leave in a 12-month period for the birth of a child, placement of a child for adoption or foster care, or the care of a parent with a serious health condition.

Q: What do I have to do to request FMLA leave from my employer?

You may be required to provide your employer with 30 days advance notice when the need for leave is "foreseeable." when such an advance notice is not possible or the need for the leave cannot be foreseen, you must give your employer notice as soon as "practicable."

Q: What kind of proof is required for my illness or that of an immediate family member?

You may be required to submit documentation called a medical certification from the health care provider who is treating you or your immediate family member.

Q: Can my employer require additional proof?

Your employer may require you to obtain additional medical certification from a health care provider of the employer's choice, and at the employer's expense.

Q: Can my employer require me to return to work before I exhaust my leave?

Subject to certain limitations, your employer may deny the continuation of FMLA leave due to a serious health condition if you fail to fulfill obligations to provide supporting medical certification as required by the law.

Q: Are there any restrictions on how I spend my time while on leave?

Generally no, provided the leave is taken for a legitimate family or medical reason and all appropriate notice and certification requirements are met. However, employers with established policies regarding outside employment while on paid or unpaid leave may uniformly apply this policy to employees on FMLA leave.

Q: Can my employer make inquiries about my leave during my absence?

Yes, but only to you. Your employer may have reason to confirm whether the leave needed or being taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work after leave. Also, if the employer has reason to doubt the validity of a medical certification or wishes to obtain another opinion, you may be required to obtain additional medical certification at the employer's expense, or recertification during a period of unpaid FMLA leave.

Q: can my employer refuse to grant me FMLA leave?

If you are an "eligible" employee who has met FMLA's notice and certification requirements (and you have not exhausted your FMLA leave entitlement for the year) you may not be denied FMLA leave.

Q. Are there circumstances in which my employer can deny me my job after using FMLA leave?

Employers are not required to reinstate employees who would have been laid off or otherwise had their employment terminated had they continued to work during the period leave was used (for example, employees hired for a specific term of employment that expires). Also, under certain circumstances, employers who advise employees experiencing a serious health condition that they will require a medical certificate of fitness for duty to return to work may deny reinstatement to an employee who fails to provide such a certificate until it is provided.

Q: Can my employer fire me for complaining about a violation of FMLA?

No, nor can the employer take any other adverse employment action on this basis. It is unlawful for any employer to discharge or otherwise discriminate against an employee for opposing a practice made unlawful under FMLA.

Q: Will I be allowed to return to my same job after my leave?

Generally, yes. Ordinarily you will be restored to the same position you held prior to the leave, with the same pay and benefits, if the position remains available. You may be restored to an "equivalent position" rather than the position you held before taking leave if the previous position is not available. An equivalent position

must have equivalent pay, benefits, and terms and conditions of employment as the original job.

Q: Do I lose all my benefits when I take unpaid FMLA leave?

Your employer is required to maintain health insurance coverage on the same terms it was provided before the leave commences, as if you continued to work.

In addition, the use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of your leave. Certain other earned benefits, such as seniority, do not need to continue to accrue during a period of unpaid FMLA leave. And for still other kinds of benefits, such as elected life insurance coverage, arrangements may need to be made between you and your employer so that they are continued during a period of FMLA leave. With the sole exception of accrued or earned benefits such as seniority, unless you elect otherwise, you must be restored to the same benefits upon return from FMLA leave as if you had continued to work during the period of the leave.

Q: What are the military leave requirements?

A covered employer must grant an eligible employee up to **12 work weeks** of unpaid, job-protected leave during any 12-month period for qualifying exigencies that arise when the employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

Covered active duty means:

for members of the **Regular** Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or

for members of the **Reserve** components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

Deployment to a foreign country includes deployment to international waters.

Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member's absence.

## **MILITARY CAREGIVER LEAVE**



A covered employer must grant an eligible employee up to a total of **26 workweeks** of unpaid, job-protected leave during a “single 12-month period” to care for a covered service member with a serious injury or illness. The employee must be the spouse, son, daughter, parent, or next of kin of the covered service member.

A covered service member is either:

a **current** member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or

a **veteran** of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service member.

For a current service member, a serious injury or illness is one that may render the service member medically unfit to perform his or her military duties. For a veteran, a serious injury or illness is one that rendered the veteran medically unfit to perform his or her military duties, or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran’s ability to work. For veterans, it includes injuries or illnesses that were or incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

For more information, please contact the nearest office of the wage and hour division, listed in most telephone directories under U.S. Government, department of labor, employment standards administration.

## Appendix B

### COBRA AND STATE CONTINUATION COVERAGE

#### When do I have to be offered COBRA coverage?

If you are leaving your job and you had group coverage, you may be able to stay within your group plan for an extended time through COBRA or state continuation coverage. The information presented below was taken from publications prepared by the US Department of Labor. You should contact them for more information about your rights under cobra.

*To qualify for COBRA continuation coverage, you must meet 3 criteria:*

- First, you must work for an employer with 20 or more employees. If you work for an employer with 2-19 employees, you may qualify for state continuation coverage. (see below.)
- Second, you must be covered under the employer's group health plan as an employee or as the spouse or dependent child of an employee.
- Finally, you must have a qualifying event that would cause you to lose your group health coverage. (see below.)

#### COBRA QUALIFYING EVENTS

##### *For Employees*

- Voluntary or involuntary termination of employment for reasons other than gross misconduct
- Reduction in numbers of hours worked

##### *For Spouses*

- Loss of coverage by the employee because of one of the qualifying events listed above
- Covered employee becomes eligible for Medicare
- Divorce or legal separation of the covered employee
- Death of the covered employee

##### *For Dependent Children*

- Loss of coverage because of any of the qualifying events listed for spouses
- Loss of status as a dependent child under plan rules

Each person who is eligible for COBRA continuation can make his or her own decision. If your dependents were covered under your employer plan, they may independently elect cobra coverage as well.

You must be notified of your cobra rights when you join the health group plan, and again if you qualify for COBRA coverage. The notice rules are somewhat complicated and you should contact the US Department of Labor for more information.

In general, if the event that qualifies you for COBRA coverage involves the death, termination, reduction in hours worked, or Medicare eligibility of the covered worker, the employer has 30 days to notify the group health plan of this event. However, if the qualifying event involves divorce or legal separation or loss of dependent status, you have 60 days to notify the group health plan. Once it has been notified of the qualifying event, the group health plan has 14 days to send you a notice about how to elect COBRA coverage. Each member of your family eligible for COBRA coverage then has 60 days to make this decision.

Once you elect COBRA, coverage will begin retroactive to the qualifying event. You will have to pay premiums dating back to this period.

To qualify as federally eligible, you must choose and use up any COBRA or state continuation coverage available to you.

#### **What will COBRA cover?**

- Your covered health benefits under cobra will be the same as those you had before you qualified for COBRA. For example, if you had coverage for medical, hospitalization, dental, vision, and prescription drug benefits before COBRA, you can continue coverage for all these benefits under COBRA. If these benefits were covered under more than one plan (for example, a separate health insurance and dental insurance plan) you can choose to continue coverage under any or all of the plans. Life insurance is not covered by COBRA.
- If your employer changes the health benefits package after your qualifying event, you must be offered coverage identical to that available to other active employees who are covered under the plan.

#### **What can I be charged for COBRA coverage?**

- You must pay the entire premium (employer and employee share, plus a 2% administrative fee) for COBRA continuation coverage. The first premium must be paid within 45 days of electing COBRA coverage.

- If you elect the 11 month disability extension, the premium will increase to 150% of the total cost of coverage. See below for more information about the disability extension.

**How long does COBRA coverage last?**

- COBRA coverage generally last up to 18 months and cannot be renewed. However, certain disabled people can opt for coverage up to 29 months, and dependents are sometimes eligible for up to 36 months of cobra continuation coverage, depending on their qualifying event. (see box.)

**How long can COBRA coverage last?**

<u>Qualifying event(s)</u>	<u>Eligible Person(s)</u>	<u>Coverage</u>
Termination Reduced hours	Employee Spouse Dependent child	18 months*
Employee enrolls in Medicare Divorce or legal separation Death of covered employee	Spouse Dependent child	36 months
Loss of "Dependent child" Status	Dependent child	36 months

\*Certain disabled persons and their eligible family members can extend coverage an additional 11 months, for a total of up to 29 months.

- Usually, COBRA continuation coverage ends when you join a new health plan. However, if your new plan has a waiting period or a pre-existing condition exclusion period, you can keep whatever COBRA continuation you have left during that period. For specifics, ask your former employer or contact the US Department of Labor.
- COBRA coverage also ends if your employer stops offering health benefits to other employees.
- COBRA coverage might end if you are in a managed care plan that is available only to people living in a limited geographic and you move out of that area. However, if you are eligible for COBRA and are moving out of your current health plan’s service area, your employer must provide you with the opportunity to switch to a different plan, but only if the employer already offers other plans to its employees. Examples of other plans your employer

may offer you are a managed care plan whose service area includes the area you are moving to, or another plan that does not have a limited service area. If you have further questions, please refer to the health insurance consumer guide for Arkansas at <http://www.healthinsuranceinfo.net/ar03.html>.

## Appendix C

### Addendum to policy 601:1 Reporting procedures

#### Reporting Timeframes

##### A. Immediate Reporting

Providers must report the following incidents to the DDS Quality Assurance emergency number ((501) 765-9018) within one (1) hour of occurrence, regardless of hour:

- Suicide
- Death from adult abuse
- Death from child maltreatment
- Serious injury

##### B. Incidents Involving Potential Publicity

Incidents, regardless of category, that a Provider should reasonably know might be of interest to the public and/or media must be immediately reported to DDS Quality Assurance in central office if during business hours, and to the DDS Quality Assurance emergency number ((501) 765-9018), if after business hours.

##### C. All Other Incident Reports

Except as otherwise provided above in subsection A and B, all reportable incidents must be reported to DDS Quality Assurance using the automated form DHS 1910 via secure e-mail no later than two (2) days following the incident. Any incident that occurs on a Friday is still considered timely if reported by the Monday immediately following.

#### Required Incident Report Contents

A. Initial Incident Report: Each initial incident report filed by a Provider must contain the following information:

1. Date of the incident
2. Detailed description of the accident/injury
3. Time of the incident
4. Location of incident
5. Persons involved in the incident
6. Other agencies contacted regarding incident, and the name of the

- individual in the agency that was contacted
7. Whether the guardian was notified of the incident and time of notification,
  8. Whether the police were involved, and if so, a detailed description of their involvement
  9. Any action taken by Provider or staff of Provider, both at the time of the incident and subsequent to the incident
  10. Any expected follow-up
  11. Name of person that prepared the report

When applicable, the Provider shall notify the parent or legal guardian of the beneficiary any time an incident report is submitted.

B. Follow-up Incident Reports: Information that is not available at the time of the initial incident report filing must be submitted in follow-up or final incident reports. These reports should be submitted in the same manner as soon as the additional information becomes available.

- The initial report should be resubmitted with the “follow-up” or “final” report areas checked and dated in the appropriate space on the incident report form.
- The current date should precede the new information in the text/narrative sections to differentiate follow-up information from the information originally submitted.
- A new form DHS-1910 should be submitted for follow-up and final reports only when there is insufficient space on the original form. Whenever a new form is submitted, the date of the original written report must be included for cross-referencing.

## **Accident Reporting Procedures**

All employees, staff, subcontractors, volunteers, or others associated with Arkansas Support Network, Inc. must report accidents of any nature that occur to individuals served by this agency.

Reporting should be completed in the following manner:

- (1) Employees/subcontractors should, within the hour report accidents to the assigned manager or his designee.
- (2) A written report of the accident should be completed by the employee giving detailed information concerning the accident within three (3) hours and will be given to the manager.
- (3) The manager or and his designee will contract the appropriate agencies per licensing requirements.
- (4) If the accident requires medical attention, the employee will assure that medical attention is delivered quickly and efficiently. A physician's report concerning the accident will be received and kept on file.
- (5) All precautions will be taken to avoid accidents from occurring by all employees and others associated with the agency.
- (6) Records of each accident will be kept in the individual's/family's main file.

## **Maltreatment Prevention/Reporting/Investigation**

(1) Definitions:

- Child: any person under eighteen years of age.
- Adult: persons eighteen years of age or older.
- Abuse of an adult: a situation posing an imminent risk of death or serious bodily harm, battery, or any willful negligent act which results in physical or psychological injury inflicted by other than accidental means.
- Abuse of a child: non accidental physical injury mental injury, sexual abuse or sexual exploitation inflicted on a person less than eighteen years of age, an injury which is at variance with the history given for it, conduct defined by the criminal laws of Arkansas.
- Neglect: the failure of a person responsible for another person to provide for the person's basic, essential and necessary physical, mental, or emotional needs, including, but not limited to clothing, shelter, support, education, supervision and medical care, or any maltreatment of the child/adult.
- Verbal abuse: language or gesture directed towards or in the presence of



individuals served, to include but not limited to: cursing, belittling, insulting, and/or threatening language and hateful and/or excessively loud tones which could cause apprehension.

- Injurious neglect: any situation in which the care and safety of the individual served by ASN is not provided and/or maintain and results in: immediate danger to the child/adults' health, injury or continuous and /or repeated instances of non-injurious neglect.
- Excessive force: use of more force than is necessary or required to handle/control a situation.
- Exploitation: any unjust or improper use of an individual served by asn for profit or advantage by an employee or volunteer.
- Incitement: initiating or attempting to initiate actions on the part of others to commit offenses.
- Aversive stimuli: use of aversive as described in policy p-20.

Note: employees/volunteers should be aware that many of the individuals we serve may be unwilling or unable to tell others that they are being abused.

## Appendix D

### PROCEDURE FOR CONDUCTING CRIMINAL RECORDS CHECKS ON EMPLOYEES OF SERVICE PROVIDERS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

#### **20-48-802. Mandatory criminal history records checks for applicants and employees of service providers**

(a)(1) When a person applies for a position as an employee of a service provider, the service provider shall require each applicant pursuant to this section to complete a criminal history records check form. Prior to employment, the applicant must be fingerprinted. The fingerprints shall be available for use by the Federal Bureau of Investigation and for transmittal to the Federal Bureau of Investigation for a national criminal history records check. The information obtained from the national criminal history records check conducted pursuant to this section may be used by the service provider to determine the applicant's eligibility for employment.

(2) If the service provider intends to make an offer of employment to the applicant, the service provider shall within five (5) business days of that decision forward the criminal history records check form and the applicant's fingerprint card to the bureau accompanied by appropriate payment and request the bureau to review the bureau's index of criminal history records.

(3) Within three (3) business days of the receipt of a request to review the index, the bureau shall notify the service provider whether the index contains any criminal history records on the applicant.

(4)(a) A service provider may make an offer of temporary employment to an applicant pending receipt of notification from the bureau after conducting a central registry check.

(b) If no finding of fault records regarding the applicant is [should be "are" not "is"; subject is "records"] found in the central registry, then the service provider may continue to temporarily employ the applicant while the bureau completes a criminal history records check.

(c)(i) If a criminal history record regarding the applicant is found, then the applicant is temporarily disqualified from employment until the licensing agency issues a determination.

(ii) If the licensing agency issues a determination that the applicant is qualified, then the service provider may employ the applicant.

(b)(1) Except as provided in subdivision (b) (2) of this section, the bureau shall conduct a national criminal history records check on an applicant or employee upon receiving a

request from a service provider.

(2) If the service provider can verify that the applicant or employee has been employed within the state of Arkansas to provide care to individuals with disabilities within sixty (60) days before the application or request from the service provider or has lived continuously in the state for the past five (5) years, the bureau shall conduct only a state criminal history records check on the applicant or employee.

(3) If the service provider determines the need to utilize temporary employees provided by a private placement agency or other contract staffing company, it shall be the responsibility of the private placement agency or contract staffing agency to initiate the criminal background check as provided by this subchapter before the placement of the person in the service provider's facility, and the private placement agency or contract staffing agency must document the pending background check or the final determination for the service provider.

(c)(1) Upon completion of a criminal history records check on an applicant or employee, the bureau shall issue a report to the entity making the request.

(2) The licensing agency shall determine whether the applicant or employee is disqualified from employment with the service provider and shall forward its determination to the service provider.

(3) If the licensing agency determines that an applicant or employee is disqualified from employment, then the service provider shall terminate the employment of the employee or shall deny employment to the applicant.

(d) Before making an offer of employment to an applicant and on an ongoing basis for current employees, as required in § 20-48-811(b), a service provider shall inform applicants and employees that continued employment is contingent upon the results of periodic criminal history records checks and that the applicant or employee has the right to obtain a copy of the report from the bureau.

**History. Acts 2001, no. 1548, § 1.**

### **20-48-803. Evidence of records checks**

Each service provider shall maintain on file, subject to inspection by the Arkansas crime information center, the identification bureau of the department of Arkansas state police, or the licensing agency, evidence that criminal history records checks have been initiated on all applicants and employees as required by § 20-48-811(b) and that a copy of each determination has been received from the licensing agency.

**History. Acts 2001, no. 1548, § 1.**

**20-48-804. Disqualification from employment - Denial or revocation – Penalties (a)(1)**

Except as provided in subsection (f) of this section, a licensing agency shall issue a determination that a person is disqualified from employment with a service provider if the person:

(a) Has been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in subsection (b) of this section; or

(b) Is registered as a sex offender or is required to register as a sex offender.

(2) Except as provided in subdivisions (c)(1)(b)-(d) of this section and except as provided in subsection (f) of this section, a service provider shall not knowingly employ a person who:

(a) Has pleaded guilty or nolo contendere to or has been found guilty of any of the offenses listed in subsection (b) of this section by any court in the state of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court; or

(b) Is registered as a sex offender or is required to register as a sex offender. (b)(1) Capital murder, as prohibited in § 5-10-101;

(2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree, as prohibited in § 5-10-103;

(3) Manslaughter as prohibited in § 5-10-104;

(4) Negligent homicide as prohibited in § 5-10-105;

(5) Kidnapping as prohibited in § 5-11-102;

(6) False imprisonment in the first degree as prohibited in § 5-11-103;

(7) Permanent detention or restraint as prohibited in § 5-11-106;

(8) Robbery as prohibited in § 5-12-102;

(9) Aggravated robbery as prohibited in § 5-12-103;

(10) Battery as prohibited in §§ 5-13-201 - 5-13-203;

- (11) Aggravated assault as prohibited in § 5-13-204;
- (12) Introduction of controlled substance into body of another person as prohibited in § 5-13-210;
- (13) Terroristic threatening in the first degree and second degree as prohibited in § 5-13-301(a) and (b);
- (14) Rape as prohibited in § 5-14-103;
- (15) Sexual indecency with a child as prohibited in § 5-14-110;
- (16) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 - 5-14-127;
- (17) Incest as prohibited in § 5-26-202;
- (18) Offenses against the family as prohibited in §§ 5-26-303 - 5-26-306;
- (19) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (20) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-203;
- (21) Permitting child abuse as prohibited in § 5-27-221(a)(1) and (3);
- (22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;
- (23) Felony adult abuse as prohibited in § 5-28-103;
- (24) Theft of property as prohibited in § 5-36-103;
- (25) Theft by receiving as prohibited in § 5-36-106;
- (26) Arson as prohibited in § 5-38-301;
- (27) Felony violation of the uniform controlled substances act, § 5-64-101 et seq.,

as prohibited in § 5-64-401;

(28) Burglary as prohibited in § 5-39-201;

(29) Promotion of prostitution in the first degree as prohibited in § 5-70-104;

(30) Stalking as prohibited in § 5-71-229;

(31) Forgery as prohibited in § 5-37-201;

(32) Breaking or entering as prohibited in § 5-39-202;

(33) Obtaining a controlled substance by fraud as prohibited in § 5-64-403;

(34) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;

(35) Computer child pornography as prohibited in § 5-27-603;

(36) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;

(37) School bus piracy, as prohibited in § 5-11-107;

(38) Assault in the first degree and second degree, as prohibited in §§ 5-13-205 and 5-13-206;

(39) Terroristic act, as prohibited in § 5-13-310;

(40) Any sexual offense, as prohibited in § 5-14-101 et seq.;

(41) Voyeurism offenses, as prohibited in § 5-16-101;

(42) Death threats concerning a school employee or student, as prohibited in § 5-17-101;

(43) Interference with visitation, as prohibited in § 5-26-501;

(44) Interference with custody, as prohibited in § 5-26-502;

(45) Contributing to the delinquency of a minor, as prohibited in § 5-27-205;

(46) Contributing to the delinquency of a juvenile, as prohibited in § 5-27-220;

- (47) Soliciting money or property from incompetents, as prohibited in § 5-27-229;
- (48) Computer crimes against minors, as prohibited in § 5-27-601 et seq.;
- (49) Theft of services, as prohibited in § 5-36-104;
- (50) Criminal impersonation, as prohibited in § 5-37-208;
- (51) Financial identity fraud, as prohibited in § 5-37-227;
- (52) Resisting arrest, as prohibited in § 5-54-103;
- (53) Felony interference with a law enforcement officer, as prohibited in § 5-54-104;
- (54) Cruelty to animals, as prohibited in § 5-62-101;
- (55) Engaging in conduct with respect to controlled substances, as prohibited in § 5-64-401 et seq.;
- (56) Public display of obscenity, as prohibited in § 5-68-205;
- (57) Promoting obscene materials, as prohibited in § 5-68-303;
- (58) Promoting obscene performance, as prohibited in § 5-68-304;
- (59) Obscene performance at a live public show, as prohibited in § 5-68-305;
- (60) Prostitution, as prohibited in § 5-70-102;
- (61) Patronizing a prostitute, as prohibited in § 5-70-103;
- (62) Promotion of prostitution in the first degree, second degree, or third degree as prohibited in §§ 5-70-104, 5-70-105, and 5-70-106;
- (63) Criminal use of a prohibited weapon, as prohibited in § 5-73-104;
- (64) Simultaneous possession of drugs and firearms, as prohibited in § 5-74-106; and
- (65) Unlawful discharge of a firearm from a vehicle, as prohibited in § 5-74-107.

(c)(1)(a) The provisions of this section shall not be waived by the licensing or requesting agency.

(b) Except for any conviction stated in subsection (b) of this section that involves violence or any sexual offense, this section shall not disqualify a person from employment if:

(i) The conviction was for a misdemeanor offense;

(ii) The date of the conviction is at least five (5) years from the date of the background check request; and

(iii) The individual has no criminal convictions of any type or nature during the five-year period preceding the background check request.

(c) Except for any conviction stated in subsection (b) of this section that involves violence or any sexual offense, this section shall not disqualify a person from employment if:

(i) The conviction was for a felony offense;

(ii) The date of the conviction is at least ten (10) years from the date of the background check request; and

(iii) The individual has no criminal convictions of any type or nature during the ten- year period preceding the background check request.

(d) A person registered as a sex offender or required to register as a sex offender shall be disqualified from employment.

(2) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, the following offenses shall result in permanent disqualification of employment and are not subject to subdivisions (c) (1)(b)-(d) of this section:

(a) Capital murder as prohibited in § 5-10-101;

(b) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;

(c) Kidnapping as prohibited in § 5-11-102;

(d) Rape as prohibited in § 5-14-103;



- (e) Sexual assault in the first degree as prohibited in § 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- (f) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (g) Felony adult abuse as prohibited in § 5-28-103; and
- (h) Arson as prohibited in § 5-38-301.

(3) An applicant or employee shall not be disqualified from permanent employment if the applicant or employee has been found guilty of or has pleaded guilty or nolo contendere to a misdemeanor if the offense did not involve exploitation of an adult, abuse of a person, neglect of a person, theft, or sexual contact.

(d) If a service provider fails or refuses to cooperate in obtaining criminal history records checks, those circumstances shall be grounds to deny or revoke the service provider's license or other operating authority.

(e) Any service provider violating this subchapter shall be guilty of a class a Misdemeanor for each violation.

(f) For purposes of this section, an expunged record of a conviction or plea of guilty or nolo contendere to an offense listed in subsection (b) of this section shall not be considered a conviction, guilty plea, or nolo contendere plea to the offense unless the offense is also listed in subdivision (c)(2) of this section.

**History. Acts 2001, no. 1548, § 1; 2003, no. 1087, § 20; 2003, no. 1381, § 1; 2005, no. 968, § 1; 2005, no. 1923, § 7.**

**20-48-805. Request for Records Check - Requirement.**

(a) A request for a state criminal history records check on a person shall include a completed statement that:

(1) Contains the name, address, and date of birth appearing on a valid identification document issued by a government entity to the person who is the subject of the check;

(2) Indicates whether the person has been found guilty of or pleaded guilty or nolo contendere to a crime and, if so, includes a description of the crime and the particulars of the finding of guilt or the plea;

(3) Notifies the person that qualified entities may request reports of state

criminal history records checks;

(4) Consents to disclosure of reports and determinations as provided by this subchapter;

(5) Notifies the person that prior to the completion of a state criminal history records check, the service provider may choose to deny the employee unsupervised access to a person to whom the service provider provides care;

(6) Informs the person how to object to the content of reports; and

(7) Contains the notarized signature of the person who is the subject of the check.

(b) Each request for a national criminal history records check shall conform to the requirements for a state criminal history records check and shall include a complete set of fingerprints.

**History. Acts 2001, no. 1548, § 1.**

**20-48-806. Duties of identification bureau and licensing agencies.**

(a) After receipt of a request for a criminal history records check, the Identification Bureau of the Department of Arkansas State Police shall make reasonable efforts to respond to requests for state criminal history records checks within twenty (20) calendar days and to respond to requests for national criminal history records checks within ten (10) calendar days.

(b)(1) The bureau shall maintain an index of the results of each applicant's or employee's criminal history records check.

(2) The bureau shall furnish a report to the service provider upon completion of each criminal history records check and upon request of the licensing agency.

(c) The bureau shall develop forms to be used for criminal history records checks conducted under this subchapter.

**History. Acts 2001, no. 1548, § 1.**

**20-48-807. Regulations - remedies for failure to comply - challenges to completeness and accuracy of information.**

(a) The Arkansas Crime Information center, the identification bureau of the department of Arkansas State Police, and each licensing or requesting agency shall cooperate to prepare forms and promulgate consistent regulations as necessary to implement this subchapter.

(b) The licensing agency shall establish remedies to be imposed on a service provider licensed by the agency for failure to comply with this subchapter.

(c) A person may challenge the completeness or accuracy of criminal history information pursuant to § 12-12-1013.

**History. Acts 2001, no. 1548, § 1.**

**20-48-808. Confidentiality.**

(a) All reports obtained under this subchapter are confidential and are restricted to the exclusive use of the Arkansas Crime Information Center, the Identification Bureau of the Arkansas State Police, the licensing agency, the service provider or requesting agency, and the person who is the subject of the report.

(b) The information contained in reports shall not be released or otherwise disclosed to any other person or agency except by court order and is specifically exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., except to the licensing agency, the service provider, or the requesting agency.

**History. Acts 2001, no. 1548, § 1.**

**20-48-809. Immunity.**

Individuals, the licensing agency, the service provider, and a requesting agency are immune from suit or liability for damages for acts or omissions other than malicious acts or omissions occurring in the performance of duties imposed by this subchapter.

**History. Acts 2001, no. 1548, § 1.**

**20-48-810. Exclusions - Licensed professionals - Completion of criminal history records check.**

(a) This subchapter shall not apply to persons who render care subject to professional licenses obtained pursuant to:

(1) Section 17-27-101 et seq., regarding licensed professional counselors;

(2) Section 17-82-101 et seq., regarding dentists;

(3) Section 17-87-101 et seq., regarding nurses;

- (4) Section 17-88-101 et seq., regarding occupational therapists;
- (5) Section 17-92-101 et seq., regarding pharmacists;
- (6) Section 17-93-101 et seq., regarding physical therapists;
- (7) Section 17-95-201 et seq., regarding physicians and surgeons;
- (8) Section 17-96-101 et seq., regarding podiatrists;
- (9) Section 17-97-101 et seq., regarding psychologists and psychological examiners;
- (10) Section 17-100-101 et seq., regarding speech-language pathologists and audiologists;
- (11) Section 17-103-101 et seq., regarding social workers; or
- (12) Section 20-10-401 et seq., regarding nursing home administrators.

(b)(1) The term "professional license" shall not include certification.

(2) Certified persons include certified nursing assistants and certified home health aides.

(c) Any person who submits evidence of having maintained employment in the state of Arkansas for the past twelve (12) months and of successfully completing a criminal history records check within the last twelve (12) months or in accordance with that person's professional license shall not be required to apply for a criminal history records check under this subchapter.

**History. Acts 2001, no. 1548, § 1.**

**20-48-811. Effective date - Criminal history record checks for applicants and employees.**

(a) All applicants for jobs involving direct care services to developmentally disabled adult persons hired on and after August 13, 2001, shall apply for criminal history records checks.

(b) Service providers who offer direct care services to developmentally disabled adult persons shall complete criminal history records checks on all employees by October 1, 2002.

**History. Acts 2001, no. 1548, § 1.**

## **APPENDIX E**

### **OSHA BLOODBORNE PATHOGENS STANDARD**

Most frequently asked questions concerning the blood borne pathogens standard.

The information contained in this appendix is not considered a substitute for any provisions of the occupational safety and health act of 1970 or the requirements 29CFR 1910.1030, occupational exposure to blood borne pathogens.

#### **FEDERAL/STATE OSHA AUTHORITY**

Federal authority extends to all private sector employers with one or more employees, as well as federal civilian employees. In addition, many states administer their own Occupational Safety and Health programs through plans approved under section 18(b) of the OSH Act.

Copies of the OSHA Bloodborne Pathogens Standard are available from the Government Printing Office (GPO order number 069-001-0004-8), superintendent of documents, Washington, D.C. 20402.

The Occupational Safety and Health Administration (OSHA) promulgated the occupational exposure to blood borne pathogens standard. This standard is designed to protect approximately 5.6 million workers in the health care and related occupations from the risk of exposure to blood borne pathogens, such as the human immunodeficiency virus and the hepatitis b virus.

The purpose of this handout is to provide answers to some of the more commonly asked questions related to the Bloodborne Pathogens Standard. Please refer to the standard for the complete text.

**Q. Who is covered by the standard?**

**A. The standard applies to all employees who have occupational exposure to blood or other potentially infectious materials (OPIM).**

\* Occupational exposure is defined as "reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM that may result from the performance of the employee's duties."

\* Blood is defined as human blood, human blood components, and products made from human blood.

\* OPIM is defined as the following human body fluids: saliva in dental procedures,

semen, vaginal secretions, cerebrospinal, synovial, pleural, pericardial, peritoneal, and amniotic fluids; body fluids visibly contaminated with blood; along with all body fluids in situations where it is difficult or impossible to differentiate between body fluids; unfixed human tissues or organs (other than intact skin); HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV- containing culture media or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Q. Are employees who are designated to render first aid covered by the standard?

A. Yes. If employees are trained and designated as responsible for rendering first aid or medical assistance as part of their job duties, they are covered by the protections of the standard.

Q. When should incidents involving exposure be reported?

A. Reporting procedures must be in place under the exposure control plan to ensure that all first aid incidents involving exposure are reported to the employer before the end of the work shift during which the incident occurs. Reports of first aid incidents must include the names of all first aid providers and a description of the circumstances of the accident, including date and time, as well as a determination of whether an exposure incident, as defined in the standard, has occurred.

- All first aid providers who render assistance in any situation involving the presence of blood or other potentially infectious materials, regardless of whether or not a specific exposure incident occurs, must have the vaccine made available to them as soon as possible but in no event later than 24 hours after the exposure incident. If an exposure incident as defined in the standard has taken place, other post-exposure follow-up procedures must be initiated immediately, per the requirements of the standard.

Q. What is an exposure control plan?

A. The exposure control plan is the employer's written program that outlines the protective measures an employer will take to eliminate or minimize employee exposure to blood and OPIM.

Q. Must the exposure control plan be accessible to employees?

A. Yes, the exposure control plan must be accessible to employees, as well as to OSHA and NIOSH representatives. The location of the plan may be adapted to the circumstances of a particular workplace, provided that employees can access a copy at the workplace during the work shift. If the plan is maintained solely on computer, employees must be trained to operate the computer.

A hard copy of the exposure control plan must be provided within 15 working days of the employee's request in accordance with 29 CFR 1910.1020.

Q. What is meant by the term universal precautions?

A. Universal precautions are OSHA's required method of control to protect employees from exposure to all human blood and OPIM. The term, "universal precautions," refers to a concept of blood borne disease control which requires that all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood borne pathogens.

Q. What alternatives are acceptable if soap and running water are not available for hand washing?

A. Antiseptic hand cleaner in conjunction with clean cloth/paper towels or antiseptic towelettes are examples of acceptable alternatives to running water. However, when these types of alternatives are used, employees must wash their hands (or other affected areas) with soap and running water as soon as feasible. This alternative would only be acceptable at worksites where soap and running water are not feasible.

Q. What type of eye protection do I need to wear when working with blood or OPIM?

A. The use of eye protection would be based on the reasonable anticipation of facial exposure. Masks in combination with eye protection devices such as glasses with solid side shields, goggles, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or OPIM may be generated, and eye, nose, or mouth contamination can be reasonably anticipated.

Q. When should gloves be changed?

A. Disposable gloves shall be replaced as soon as practical after they have become contaminated, or as soon as feasible if they are torn, punctured, or their ability to function as a barrier is compromised. Hands must be washed after the removal of gloves used as PPE, whether or not the gloves are visibly contaminated.

Q. What are some alternatives when an employee is allergic to the gloves provided?

A. Hypoallergenic gloves, glove liners, powderless gloves or other similar alternatives must be provided for employees who are allergic to the gloves that are normally provided.

Q. What type of disinfectant can be used to decontaminate equipment or working surfaces which have come in contact with blood or OPIM?

A. EPA registered tuberculocidal disinfectants are appropriate for the cleaning of blood or OPIM. A solution of 5.25 percent sodium hypochlorite, (household bleach), diluted between 1:10 and 1:100 with water, is also acceptable for cleaning contaminated surfaces.

Q. What does OSHA mean by the term "regulated waste"?

A. The blood borne pathogens standard uses the term, "regulated waste," to refer to the following categories of waste which require special handling at a minimum; (1) liquid or semi-liquid blood or OPIM; (2) items contaminated with blood or OPIM and which would release these substances in a liquid or semi-liquid state if compressed; (3) items that are caked with dried blood or OPIM and are capable of releasing these materials during handling; (4) contaminated sharps; and (5) pathological and microbiological wastes containing blood or OPIM.

Q. Are feminine hygiene products considered regulated waste?

A. OSHA does not generally consider discarded feminine hygiene products, used to absorb menstrual flow, to fall within the definition of regulated waste. The intended function of products such as sanitary napkins is to absorb and contain blood. The absorbent material of which they are composed would, under most circumstances, prevent the release of liquid or semi-liquid blood or the flaking off of dried blood. OSHA expects these products to be discarded into waste containers which are properly lined with plastic or wax paper bags. Such bags should protect the employees from physical contact with the contents.

At the same time, it is the employer's responsibility to determine the existence of regulated waste. This determination is not based on actual volume of blood, but rather on the potential to release blood, (e.g., when compacted in the waste container). If OSHA determines, on a case-by-case basis, that sufficient evidence of regulated waste exists, either through observation, (e.g., a pool of liquid in the bottom of a container, dried blood flaking off during handling), or based on employee interviews, citations may be issued.

Q. How do I dispose of regulated waste?

A. Regulated waste shall be placed in containers which are:

- \* closable;

- \* constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

- \* labeled or color-coded in accordance with paragraph (g)(1)(i) of the standard; and



- \* closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

- \* closable;

- \* constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping;

- \* labeled or color-coded in accordance with paragraph (g)(1)(i) of the standard; and

- \* closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states and territories, and political subdivisions of states and territories.

Q. What does OSHA mean by the term "contaminated laundry"?

A. Contaminated laundry means laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

Q. How should contaminated laundry be handled?

A. Contaminated laundry shall be handled as little as possible with a minimum of agitation. Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use. Other requirements include:

Q. Who must be offered the hepatitis b vaccination?

A. The hepatitis b vaccination series must be made available to all employees who have occupational exposure. The employer does not have to make the hepatitis b vaccination available to employees who have previously received the vaccination series, who are already immune as their antibody tests reveal, or who are prohibited from receiving the vaccine for medical reasons.

Q. When should the hepatitis b vaccination be offered to employees?

A. The hepatitis b vaccination must be made available within 10 working days of initial assignment, after appropriate training has been completed. This includes arranging for the administration of the first dose of the series. In addition, see pages 3 and 4 of this booklet for vaccination of designated first aiders.

Q. Can pre-screening be required for hepatitis b titer? Post-screening?

A. No. The employer cannot require an employee to take a pre-screening or post-vaccination serological test. An employer may, however, decide to make pre-screening available at no cost to the employee. Routine post-vaccination serological testing is not currently recommended by the CDC unless an employee has had an exposure incident, and then it is also to be offered at no cost to the employee.

Q. Can employees refuse the vaccination?

A. Employees have the right to refuse the hepatitis b vaccine and/or any post-exposure evaluation and follow-up. It is important to note, however, that the employee needs to be properly informed of the benefits of the vaccination and post-exposure evaluation through training. The employee also has the right to decide to take the vaccination at a later date if he or she so chooses. The employer must make the vaccination available at that time.

Q. Can the hepatitis b vaccination be made a condition of employment?

A. OSHA does not have jurisdiction over this issue.

Q. Is a routine booster dose of hepatitis b vaccine required?

A. Because the U.S. Public health service (USPHS) does not recommend routine booster doses of hepatitis b vaccine, they are not required at this time. However, if a routine booster dose of hepatitis b vaccine is recommended by the USPHS at a future date, such booster doses must be made available at no cost to those eligible employees with occupational exposure.

Q. Whose responsibility is it to pay for the hepatitis b vaccine?

A. The responsibility lies with the employer to make the hepatitis b vaccine and vaccination, including post-exposure evaluation and follow-up, available at no cost to the employees.

Q. What information must the employer provide to the health care professional following an exposure incident?

A. The health care professional must be provided with a copy of the standard, as well as the following information:

- \* a description of the employee's duties as they relate to the exposure incident;
- \* documentation of the route(s) and circumstances of the exposure;

\* the results of the source individual's blood testing, if available; and

\* all medical records relevant to the appropriate treatment of the employee, including vaccination status, which are the employer's responsibility to maintain.

Q. What serological testing must be done on the source individual?

A. The employer must identify and document the source individual if known, unless the employer can establish that identification is not feasible or is prohibited by state or local law. The source individual's blood must be tested as soon as feasible, after consent is obtained, in order to determine HIV and HBV infectivity. The information on the source individual's HIV and HBV testing must be provided to the evaluating health care professional. Also, the results of the testing must be provided to the exposed employee. The exposed employee must be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

Q. What if consent cannot be obtained from the source individual?

A. If consent cannot be obtained and is required by state law, the employer must document in writing that consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood if available shall be tested and the results documented.

Q. When is the exposed employee's blood tested?

A. After consent is obtained, the exposed employee's blood is collected and tested as soon as feasible for HIV and HBV serological status. If the employee consents to the follow-up evaluation after an exposure incident, but does not give consent for HIV serological testing, the blood sample must be preserved for 90 days. If, within 90 days of the exposure incident, the employee elects to have the baseline sample tested for HIV, testing must be done as soon as feasible.

Q. What information does the health care professional provide to the employer following an exposure incident?

A. The employer must obtain and provide to the employee a copy of the evaluating health care professional's written opinion within 15 days of completion of the evaluation. The health care professional's written opinion for hepatitis b is limited to whether hepatitis b vaccination is indicated and if the employee received the vaccination. The written opinion for post- exposure evaluation must include information that the employee has been informed of the results of the evaluation and told about any medical conditions resulting from exposure that may further require evaluation and treatment. All other findings or diagnoses must be kept confidential and not included in the written report.

Q. What type of counseling is required following an exposure incident?

A. The standard requires that post-exposure counseling be given to employees following an exposure incident. Counseling should include USPHS recommendations for transmission and prevention of HIV. These recommendations include refraining from blood, semen, or organ donation; abstaining from sexual intercourse or using measures to prevent HIV transmission during sexual intercourse; and refraining from breast feeding infants during the follow-up period. In addition, counseling must be made available regardless of the employee's decision to accept serological testing.

Q. Which employees must be trained?

A. All employees with occupational exposure must receive initial and annual training.

Q. Should part-time and temporary employees be trained?

A. Part-time and temporary employees are covered and are also to be trained on company time.

### **OSHA 29 CFR code 1910.1030**

Extracts (only) as they apply to glove issues.

Please contact your local OSHA office for a copy of the "entire" regulation or you can 1910.1030 – blood borne pathogens.

- \* Standard number: 1910.1030
- \* Standard title: blood borne pathogens.
- \* Subpart number: z
- \* Subpart title: toxic and hazardous substances

(a) ) Scope and application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by paragraph (b) of this section.

(b) Definitions. For purposes of this section, the following shall apply:  
"Director" means the director of the national institute for occupational safety and health, U.S. Department of health and human services, or designated representative.

"HBV" means hepatitis b virus.

"HIV" means human immunodeficiency virus.

"Personal Protective Equipment" is specialized clothing or equipment worn by an

employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard is not considered to be personal protective equipment.

"Source Individual" means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

"Sterilize" means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial Endospores.

"Universal precautions" is an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood borne pathogens.

"Work Practice Controls" means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

1910.1030(c)

(2) Engineering and work practice controls. (i) Engineering and work practice controls shall be used to eliminate or minimize employee exposure.

Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

(ii) Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

(iii) Employers shall provide hand washing facilities which are readily accessible to employees.

(iv) When provision of hand washing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

(v) Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

(vi) Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious

materials.

(3) Personal Protective Equipment. (i) Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

1910.1030(d)(3)(ii)

(ii) Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or co-worker. When the employee makes this judgment, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

(iii) Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

(iv) Cleaning, laundering, and disposal. The employer shall clean, launder, and dispose of personal protective equipment required by paragraphs (d) and (e) of this standard, at no cost to the employee.

1910.1030(d)(3)(v)

(v) Repair and replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

(vi) If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

(vii) All personal protective equipment shall be removed prior to leaving the work area.

(viii) When personal protective equipment is removed it shall be placed in an

appropriately designated area or container for storage, washing, decontamination or disposal.

(ix) Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and non-intact skin; when performing vascular access procedures except as specified in paragraph

(d)(3)(ix)(d); and when handling or touching contaminated items or surfaces.

(a) Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

1910.1030(d)(3)(ix)(b)

(b) Disposable (single use) gloves shall not be washed or decontaminated for re-use.

(c) Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibits other signs of deterioration or when their ability to function as a barrier is compromised.

(d) If an employer in a volunteer blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall:

{1} periodically reevaluate this policy;

{2} make gloves available to all employees who wish to use them for phlebotomy;

{3} not discourage the use of gloves for phlebotomy; and

{4} require that gloves be used for phlebotomy in the following circumstances:

[i] When the employee has cuts, scratches, or other breaks in his or her skin;

[ii] When the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and

[iii] When the employee is receiving training in phlebotomy.

1910.1030(d)(3)(x)

(x) Masks, eye protection, and face shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(xi) Gowns, aprons, and other protective body clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar

outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

(xii) ) Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopedic surgery).

(4) Housekeeping. (i) General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

1910.1030(d)(4)(ii)

(ii) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(a) Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.

(b) Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the work shift if they may have become contaminated during the shift.

(c) All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

1910.1030(i)(1)

(1) Effective date. The standard shall become effective on March 6, 1992.

(2) The exposure control plan required by paragraph (c) of this section shall be completed on or before May 5, 1992.

(3) Paragraph (g)(2) information and training and (h) recordkeeping shall take effect on or before June 4, 1992.

(4) Paragraphs (d)(2) engineering and work practice controls, (d)(3) personal protective equipment, (d)(4) housekeeping, (e) HIV and HBV research laboratories and production facilities, (f) hepatitis b



vaccination and post-exposure evaluation and follow-up, and (g)(1) labels and signs, shall take effect July 6, 1992.

**[56 fr 64004, Dec. 06, 1991, as amended at 57 fr 12717, April 13, 1992; 57 fr 29206, July 1, 1992; 61 fr 5507, Feb. 13, 1996.**

## **APPENDIX F TRAINING FOR NEW EMPLOYEES**

All new employees are required to attend new employee orientation which consists of a minimum of 6 hours of classroom training (see orientation and new employee training 205).

New employee orientation classroom instruction includes the following (6 hours):

### **Overview of Arkansas Support Network, Inc.:**

Philosophy; policy and procedures including incidents/accidents/ suspected abuse/neglect; programs and services; appeals processes for staff and consumers; etiquette towards persons served; personnel policies regarding performance evaluations; leave practices; requirements during probationary period; conflict of interest; benefits.

### **Overview of Federal/State government:**

DHS/DD; history of services to people with developmental disabilities, general information about developmental disabilities and current issues in the field of developmental disabilities; federal and state laws pertaining to developmental disabilities.

### **Health and safety requirements:**

Overview of first aid, blood borne pathogens/HIV/HBV procedures (see OSHA regulations, appendix); general overview of behavior interventions/strategies; medication management and administration of medications following policies and procedures; emergency disaster preparedness.

### **Documentation training:**

Information on payroll, completion of all payroll documents, documentation related to services provided, and travel reimbursement forms.

One to one training for direct care staff includes the following 6 hours:

Individualized support plan (ISP) and individual support processes and methods for effective service delivery.

Team meeting orientation training for direct staff. This includes orientation to the consumer's home, staff, shared responsibilities, fire and safety preparedness drills, home, specific training duties of each person on the team, and development of rapport with person(s) served.

Training for direct care staff team including overview of current state of affairs within the agency; sharing and development of team ideas, ongoing improvement of community integration opportunities, positive programming techniques, and self advocacy/advocacy development.

**APPENDIX G**  
**BOMB THREAT PROCEDURES**

**Immediate Response**

1. If the threat is made by telephone, the person taking the call will ascertain as much information as reasonably possible.
  - a. Do not hang up the telephone. Place the receiver on the desk. If the caller does not hang up, stay on the phone and notify another employee to contact Police (911).
2. If the threat is written, the CEO and/or Human Resource Manager will be immediately notified.
3. If a suspicious object is discovered, Do Not Touch It! Notify the CEO or Human Resource Manager immediately.
4. In an orderly manner, the building will be evacuated and all occupants will proceed to a designated safe area at least 300 feet from the building.
5. While awaiting Emergency Responders, all staff and occupants will be accounted for.
6. All occupants will remain outside and away from the building until re-entry is approved by designated lawful authority.

## APPENDIX H FALSE CLAIMS ACTS

The Deficit Reduction Act of 2005 contains various reforms designed to slow the increasing cost of the Medicaid program and further the long-term sustainability of Medicaid. Section 6032 provides incentives for states to enact False Claims Acts (state FCAs) modeled after the federal FCA. This provision was included in an effort to contain the escalation of fraud and waste and abuse in the Medicaid program. Health care organizations that meet the requirements of Section 6032 by proactively adopting written policies, updating employee handbooks, administering employee communication and training programs, and implementing reporting mechanisms can protect Medicaid funding and avoid civil monetary penalties resulting from false claims

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Pursuant to the Deficit Reduction Act of 2005, Section 6032 and Sections 3729 through 3733 of Title 31 of the United States Code, Arkansas Support Network, Inc., its employees, contractors, and agents shall comply with the Federal False Claims Act (FCA) and related state requirements. These policies and procedures may be amended to address requirements as directed by the State of Arkansas and the Arkansas Department of Human Services. Arkansas Support Network, Inc. is committed to following local, State and Federal laws, rules and regulations that address the prevention, detection, reporting, and correction of fraud, waste, and abuse of public funding. Complaints regarding acts which violate the False Claims Act, such as false claims or attempts to defraud healthcare programs will be promptly reported, investigated, and remedied, as appropriate and required by law. Fraudulent and abusive claims activities may include:

- **Knowingly billing for services not rendered**
- **Knowingly including improper entries on cost reports**
- **Knowingly assigning incorrect codes to secure higher reimbursement for services**
- **Knowingly characterizing unallowable services or costs in a way that secures reimbursement**
- **Not seeking payment from beneficiaries who may have other primary payment sources**
- **Knowingly falsifying, forging, altering, or destroying documents to secure payment**

The terms "knowing" and "knowingly" mean that a person, with respect to information (1) Has actual knowledge of the information; (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, and no proof of specific intent to defraud is required.

All Arkansas Support Network, Inc. employees, contractors, vendors and agents are required to participate in the prevention, detection and reporting of fraud, waste and abuse of resources. Detailed information regarding the False Claims Act shall be provided to all Arkansas Support Network, Inc. employees, agents and contractors.

All individuals who engage in financial documentation and billing will be responsible for ensuring that information is accurate and does not constitute fraud as defined above.

Entities that are responsible for the monitoring of programs and services will also be responsible for verifying that documentation and billing is accurate and reflective of the services provided to individuals. Information that is not reconcilable and is not intentionally falsified is to be corrected prior to the submission of any billing. If it has been determined that a fraudulent or abusive act has occurred, the act is to be reported following reporting procedures below.

If an employee, contractor or agent of Arkansas Support Network, Inc. believes that a representative of Arkansas Support Network, Inc. is fraudulently billing for services as described above, he/she should immediately contact a member of administration, the Chief Executive Officer, or the Director of Compliance.

Complaints regarding acts which violate the False Claims Act (FCA), such as false claims or attempts to defraud health care programs will be promptly reported, investigated, and remedied, as appropriate and required by law.

Arkansas Support Network, Inc. will thoroughly investigate any and all allegations of violations of the FCA on the part of Arkansas Support Network, Inc. employees. Arkansas Support Network, Inc. Director of Compliance has the sole responsibility and authority to direct all investigations and follow-up activities.

Reports of suspected or observed acts shall include:

- **Name(s) of individuals involved in the suspected or observed fraudulent act**
- **When the suspected or observed fraudulent act occurred**
- **Where the suspected or observed fraudulent act occurred**
- **Which programs, departments, and/or individuals were affected by the fraudulent act**
- **A thorough description of the suspected or observed act**
- **Name(s) of individuals who have firsthand knowledge of the suspected or observed**

act

• **Name(s) of other individuals who may have knowledge of the suspected or observed act**

The FCA provides protection from retaliation by their employer to employees who act as whistleblowers. An employee may not be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA.

31U.S.C.3730(h).

Retaliation against an employee or other who in good faith, reported a violation or assisted in a complaint investigation is strictly prohibited. If an individual feels that retaliation has occurred, a complaint regarding the retaliation is to be filed with the Arkansas Support Network, Inc. Chief Executive Officer, Director of Compliance or designee within forty-five days. If the employee can demonstrate that he or she was the victim of such retaliation, the employee is entitled to reinstatement, and reimbursement of other costs and damages.

However, the FCA also provides that any person who brings an action for the purpose of harassing the employer, and/or the case has no merit, the whistleblower may have to pay the defendant for its legal fees and the costs of its defense. Violations of this policy as well as actual wrongdoings in the areas of fraud, waste, and abuse may have severe consequences including, but not limited to, civil and criminal penalties as allowed under applicable federal and state laws including the False Claims Act.

The FCA allows individuals who have first-hand knowledge of fraudulent billing as described above to sue the entity that submitted the false claim on behalf of the United States. These are called “qui tam” lawsuits and are also known as “whistleblower lawsuits”. In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as “qui tam relaters,” may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relater (whistleblower), when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relater substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relater shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

Additionally, another Federal statute, *the Federal Administrative Remedies for False Claims*, 31 Sections 3801 through 3812, creates a penalty for submitting a false claim up to \$5,000 per claim and twice the amount of the claim. This law is violated when a false

claim is submitted, not when it is paid. Under this statute, investigations and recoveries are handled by federal agencies, not the courts. Although private individuals may report violations to the government, there is no option for whistleblowers to share in the amounts recovered.

Failure to meet the requirements of the False Claims Act may result in the forfeiture of all Medicare/Medicaid payments during the period of noncompliance.

Arkansas Support Network, Inc. will ensure that all employees, contractors, vendors and agents are informed of the False Claims Act and related acts creating the need for this policy.

Arkansas Support Network, Inc. employees will be provided this information as part of their employment orientation and training. Contractors, vendors and agents will be provided a copy of this policy to ensure compliance. Any new employee, contractor, vendor or agent will also receive the same information at time of employment or when entering into a written agreement with Arkansas Support Network, Inc.



## HOLIDAYS

502:1

**Policy:** It is the policy of ASN to designate and observe certain days each year as holidays. Eligible employees will be given a day off with pay for each holiday observed. Non-eligible employees who work on recognized holidays will be paid one and one-half times their normal pay.

### Comment:

(1) The schedule of holidays that ASN will observe during each calendar year is:

<u>Month</u>	<u>Holiday</u>
July	Independence Day
August	-0-
September	Labor Day
October	-0-
November	Thanksgiving Day Day after Thanksgiving
December	Christmas Eve Christmas Day
January	New Years Day Martin Luther King Junior Day
February	-0-
March	-0-
April	-0-
May	Memorial Day
June	Juneteenth

(2) Employees eligible for holiday pay include: a) all full-time salaried employees, b) all hourly employees working in the administrative areas, (part time employees will receive 4 hours pay and full time employees will receive 8 hours pay), and c) hourly members of the Division Management Teams (DMT).

(3) Eligible hourly employees who are scheduled to work on an observed holiday will be paid one and one-half times their normal pay.