

50.5 – Element V: Well-Publicized Disciplinary Standards

(Chapter 21 - Rev. 109, Issued: 07-27-12, Effective: 07-20-12; Implementation: 07-20-12)

(Chapter 9 - Rev. 15, Issued: 07-27-12, Effective: 07-20-12; Implementation: 07-20-12)

42 C.F.R. §§ 422.503(b)(4)(vi)(E), 423.504(b)(4)(vi)(E)

Sponsors must have well-publicized disciplinary standards through the implementation of procedures which encourage good faith participation in the compliance program by all affected individuals. These standards must include policies that:

1. Articulate expectations for reporting compliance issues and assist in their resolution;
2. Identify noncompliance or unethical behavior; and
3. Provide for timely, consistent, and effective enforcement of the standards when noncompliance or unethical behavior is determined.

50.5.1 – Disciplinary Standards

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42 C.F.R. §§ 422.503(b)(4)(vi)(E), 423.504(b)(4)(vi)(E)

Sponsors must establish and implement disciplinary policies and procedures that reflect clear and specific disciplinary standards. The disciplinary policies must describe the sponsor's expectations for the reporting of compliance issues including noncompliant, unethical or illegal behavior, that employees participate in required training, and the expectations for assisting in the resolution of reported compliance issues. In addition, the disciplinary policies must identify noncompliant, unethical or illegal behavior, through examples of violative conduct that employees might encounter in their jobs. Further, the policies must provide for timely, consistent and effective enforcement of the standards when noncompliant or unethical behavior is found. Finally, the disciplinary action must be appropriate to the seriousness of the violation.

50.5.2 – Methods to Publicize Disciplinary Standards

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42 C.F.R. §§ 422.503(b)(4)(vi)(E), 423.504(b)(4)(vi)(E)

To encourage good faith participation in the compliance program, sponsors must publicize disciplinary standards for employees and FDRs. The standards should include the duty and expectation to report issues or concerns. The following are examples of the types of publication mechanisms that could be used:

- Newsletters;
- Regular presentations at department staff meetings;
- Communications with FDRs;
- General compliance training;
- Intranet site;
- Posters prominently displayed throughout employee work and break areas; and
- Cafeteria table tents.

50.5.3 – Enforcing Disciplinary Standards

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42 C.F.R. §§ 422.503(b)(4)(vi)(E), 423.504(b)(4)(vi)(E)

Sponsors must be able to demonstrate to CMS that disciplinary standards are enforced in a timely, consistent and effective manner. Records must be maintained for a period of 10 years for all compliance violation disciplinary actions, capturing the date the violation was reported, a description of the violation, date of investigation, summary of findings,

disciplinary action taken and the date it was taken. Sponsors should periodically review these records of discipline to ensure that disciplinary actions are appropriate to the seriousness of the violation, fairly and consistently administered and imposed within a reasonable timeframe. Sponsors may consider including compliance as a measure on an individual's annual performance review. In addition, a best practice followed by some sponsors is to publish de-identified disciplinary action in employee publications, such as a newsletter, in order to demonstrate to employees that disciplinary action is imposed for violations.