

INFORMATION REGARDING ANTI-FRAUD COMPLIANCE AND FALSE CLAIMS

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In compliance with Section 6032 of the Deficit Reduction Act of 2005, Aurora Public School District shall ensure that all employees, including management, along with District contractors or agents (as described below), are provided with information regarding the federal and state false claims statutes, the District's own anti-fraud policies, and the role of such laws and policies in preventing and detecting fraud, waste and abuse in federal health care programs.

Information about False Claims Laws and Compliance Policies

The District shall provide all employees, including management, and any appropriate contractors or agents, with information regarding the federal and state false claim statutes, the District's own anti-fraud policies, and the role of such laws and policies in preventing and detecting fraud, waste and abuse in federal health care programs (the "Compliance Information"). This Compliance Information is provided in Exhibit 1-E of this policy and may be amended by the District as necessary to reflect current laws.

Communications to Employees

This policy, its regulations and exhibits shall be included in the District's employee orientation material and employee handbook.

Communication to Contractors and Agents

The District shall provide this Policy and the Notice to the District's contractors and agents ("Contractors") as required by law and shall require such Contractors to notify their employees and to comply with applicable laws and the District's Compliance Policies. The Contractors who must receive this information include those providing billing, coding, and/or collections services and those furnishing Medicaid health care items or services such as contract therapists, physicians, and pharmacies. The District Internal Auditor or designee shall develop a list of the Contractors subject to this requirement and shall develop procedures for notifying Contractors of their obligations under this policy. Additionally, this Policy, the Notice, the Compliance Information and the District's Compliance Policies shall be available to Contractors on the District's website.

The District will enact regulations to implement the intents of this policy.

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Purpose

This regulation is intended to be a summary of additional conduct expectations for the Aurora Public Schools District employees who process or otherwise handle Medicaid reimbursement or other funds under the Deficit Reduction Act of 2005 as part of their professional responsibilities and employees who contract with/refer/arrange for or manage health care services. These responsibilities are in addition to those conduct expectations set forth elsewhere in District policy.

Claims Submission and Payment

1. Billing and collection activities shall be performed in accordance with all applicable state and federal laws, contractual requirements and District policies. Employees should be familiar with and follow the procedures for the development and submission of claims and/or reimbursement.
2. Claims for payment to a government program or private payer shall be submitted only for services which were performed and only where there is adequate and proper documentation of the service as provided by applicable laws and/or contractual requirements. Unless otherwise permitted by law or a private payer contract, claims shall be submitted for payment only if the services provided were medically necessary and appropriately ordered. Employees are responsible for learning the documentation and medical necessity requirements applicable to the claims that they prepare and/or submit.
3. No employee shall submit or cause to be submitted information to a government agency, client, third party payer, vendor, or to the District that the employee knows or should know is false. This standard applies to claims for an item or service the employee knows or should know was not provided, was fraudulent, was not medically necessary, was based on a billing code which would result in greater payment than the code appropriate for the item or service, or was rendered by a provider the employee knows has been excluded from participating in a federal health program or is otherwise not authorized to provide the service.
4. The District shall monitor applicable balances and shall promptly refund any payments made by state or federal agencies or private payers which exceed the amount payable under existing laws or regulations and applicable contractual agreements of which the District is

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aware.

5. Employees shall notify their supervisor or the District Internal Auditor if they believe that a staff member has engaged in possible misconduct. The District Internal Auditor shall investigate the report in accordance with the procedures set forth in the District's compliance policies. See DIF-2-R.
6. If the District has reason to believe that a staff member is engaging in substantial misconduct, the District shall take corrective action as appropriate under the circumstances. See DIF-3-R.
7. Employees shall not steal, embezzle or otherwise convert to the benefit of another person, or intentionally misapply any funds, money, premiums, credits or other assets of a provider or any healthcare benefit program, including Medicare, Medicaid or a private payer.

Relationships with Third Parties

1. Arrangements with physicians, vendors and other third parties will comply with applicable federal, state and local laws and regulations. Employees who perform contracting services should be familiar with the applicable laws and regulations affecting their area of contracting and should consult with their supervisor or the District Internal Auditor if they have any questions or are unsure about a particular contractual arrangement.
2. No employee shall knowingly and willfully solicit, offer to pay, pay or receive, anything of value, either in cash or in kind, directly or indirectly, in return for:
 - a. referring a person for any item of services covered by a Federal health program, including Medicare and Medicaid; or
 - b. leasing, purchasing, ordering, arranging or recommending leasing, purchasing or ordering any good, facility, service or item covered by Federal health program, including the Medicare and Medicaid programs.

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Conflicts of Interest

All employees shall be familiar with and abide by the District's Staff Ethics/Conflict of Interest Policy (Policy GBEA). Employees should consult with the District Internal Auditor if they are unsure whether a particular activity, relationship, or financial interest creates a conflict of interest. Actual or potential conflicts of interest should be reported to the District Internal Auditor or the employee's supervisor.

Reporting Compliance Matters

1. In order to assure compliance with applicable laws, the District encourages all employees to ask questions, clarify their responsibilities and bring to the District's attention questions, suspected wrongdoing, and areas for improvement.
2. All employees have an obligation to assist the District in promoting and assuring compliance with applicable laws, and to assist and cooperate with the District in any compliance investigation.
3. All employees and agents of the District have a duty to report any suspected wrongdoing or violation of applicable laws or the District policies or procedures. Employees also have a duty to report any act or omission that is below the District's standard of care or that has caused or could cause injury to a client or that violates a client's rights. Employees should be familiar with and follow the procedures set forth in DIF-2-R, Reporting Fraud and False Claims.

Government Investigations

The District is committed to full compliance with all state and federal laws and will cooperate appropriately with government authorities in any investigation of the District or its employees.

Records

1. Each employee shall prepared and maintain the necessary business records required for the

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employee's position. All business records containing client or provider information shall comply with the applicable legal requirements and the District policies for HIPAA compliance where applicable.

2. An employee shall not create any false record or falsify any information in a client or other District record.
3. All client and other District records shall be retained as required by law and the District's record retention policies. An employee shall not destroy any client or District record unless authorized by the District's record retention policies.

Gifts

Employees shall not solicit or accept a gift, including but not limited to cash, food, clothing, books, CDs, DVDs, services, etc. from clients, vendors or other third parties doing business with the District that includes Medicaid funds. (Exception: If an employee feels that turning down a gift offered by a client would be detrimental to the client's mental well-being, the employee may consult with their supervisor or the compliance officer).

Substance Abuse

The District is committed to providing a work environment free of substance abuse. Employees shall be prohibited from the use of non-prescribed controlled substances, possession of any illegal drugs, drug abuse or being under the influence of such substances or alcohol on the District's premises or while engaged in the District's business. Employees should be familiar with and follow District Policy GBEC, Drug and Alcohol Free Workplace.

Questions

Questions about the Code of Conduct or the appropriateness of any action should be referred to the employee's supervisor or the District Internal Auditor. Peter Doan, phone: 303-365-5815; email: pvdoan@aurorak12.org

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Duty to Report

All employees and agents of the District shall have a duty to report any suspected wrongdoing or violation of applicable laws or regulations or the District's policies. Persons who fail to fulfill this duty may be subject to disciplinary action pursuant to this policy and any other applicable the District policies.

Methods of Reporting

Suspected misconduct or violations related to fraud or false claims as defined by the Federal False Claims Act and the Colorado Medicaid Fraud and Abuse Law , the Federal and Colorado Anti-kickback Statutes, and other applicable laws may be reported by any of the following methods:

1. Directly contacting the District's Internal Auditor at 303-365-5815 or pvdoan@aurorak12.org;
2. Contacting the employee's supervisor. Supervisors who receive compliance reports shall forward them immediately to the Compliance Officer;
3. Submitting a written report to the District Internal Auditor using the Compliance Report Form, which may be obtained from the District Internal Auditor or on the District's website;
or
4. Utilizing the District's internal "hotline" phone line at 303-326-3444 or extension 63444.

Contents of Report

Regardless of how a report is made, to be useful in the detection and prevention of misconduct, the report must contain specific information regarding the suspected misconduct, including when and how the conduct occurred or is occurring, the persons involved in the conduct, and the specific nature of the conduct. Employees may report suspected violations anonymously. The District encourages persons making anonymous reports to maintain contact with the District Internal Auditor, however, so that the District Internal Auditor may obtain any additional information needed to properly investigate the report.

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Written Record

All reports, if not already provided in writing, shall be reduced to writing by the District Internal Auditor using the Compliance Report Form found as Exhibit 2-E of this policy. The form shall be given a sequential compliance report identification number and entered onto the compliance report log. All reports shall be maintained by the District Internal Auditor in a secure location. All reports and logs shall be maintained by the District Internal Auditor for a period of not less than seven years.

Confidentiality of Reports

The District shall treat reports of suspected misconduct as confidential to the greatest extent possible, subject to the District's obligation to investigate the report and take appropriate action to correct any violations or misconduct. The District shall take reasonable steps to maintain confidentiality of the identity of any person providing information to the District. The District cannot, however, guarantee complete confidentiality of the identity of persons who make reports. In fulfilling its obligations to investigate and correct misconduct and to report certain misconduct to state and federal authorities, the District may be unable to maintain the confidentiality of a reporting person's identity and such identity may become known or may have to be revealed by the District.

No Retaliation; False Reports

The District prohibits any form of retaliation against any employee or agent for filing a bona fide report under this policy or for assisting in any investigation regarding compliance matters. Persons who engage in such retaliation shall be subject to discipline up to and inclusive of termination. Should a reporting party become concerned that a retaliatory action is being initiated against them in violation of this policy, the party should report the situation to the District Internal Auditor immediately. If the employee fears that the District Internal Auditor is involved in the action, the party shall contact the Superintendent.

No employee shall be subject to disciplinary action solely on the basis that he or she mistakenly reported what he or she reasonably believed to be an act of wrongdoing, a violation of law, or a violation of the District's policies. However, if after investigating any compliance report, the District determines that the report is not bona fide or that an employee has provided false information

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regarding the report, disciplinary action may be taken against the person who filed the report or gave the false information. Additionally, an employee will be subject to disciplinary action, if it is determined that the report of wrongdoing was knowingly or willfully fabricated by the employee or was knowingly or willfully distorted, exaggerated, or minimized to either injure someone else or to protect himself or herself. An employee 'knowingly' provides false information if he or she knows or reasonably should know that the information is false or intentionally or recklessly disregards whether or not the information is false.

Discipline of a Reporting Employee

An employee whose report of misconduct contains admissions of personal wrongdoing is not guaranteed protection from disciplinary action simply because he or she made the report. In recommending what, if any, disciplinary actions may be taken against a reporting employee, the District Internal Auditor will take into account an employee's own admission of wrongdoing, provided, that the employee's involvement was not previously known to the District or its discovery was not imminent, and that the admission was complete and truthful. The weight to be given to self-reporting will depend on all facts known at the time the District makes its discipline decisions and the applicable disciplinary procedures set forth in the District's compliance and human resources policies.

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When a compliance issue is reported or detected, the District Internal Auditor shall take all reasonable steps to investigate the issue, respond appropriately, and take any necessary corrective action.

Investigation of Reports

It is the District's policy to take seriously all reports of fraud or false claims as set forth in state and federal law. Any such report, regardless how made, shall be forwarded to the District Internal Auditor who shall assure that the following steps are taken as applicable:

1. No promises will be made to the person making the report regarding his or her liability, the confidentiality of his or her identify or what steps the District may take in response to the report.
2. The District Internal Auditor, in consultation with Superintendent or designee and legal counsel as necessary, shall determine whether the alleged wrongdoing, if established, would be a violation of state or federal law (and if so, whether the violation is a criminal offense), a violation of the District's compliance policies, or otherwise would put the District at risk of economic injury, civil or criminal liability or injury to the District's reputation.
3. The District Internal Auditor, in consultation with the Superintendent or designee and legal counsel as necessary, shall determine, commensurate with the gravity of the allegation, what steps will be taken to investigate the report. The District Internal Auditor may investigate the report or may delegate the responsibility for such investigation to an appropriate person within or outside the District. In some cases an investigation may be conducted by the District's legal counsel in the course of providing legal representation to the District on related issues.
4. The investigation may include, as appropriate, review of documents, witness interviews, audits of the District practices, and other appropriate actions. The person responsible for conducting the investigation shall keep a record of all activities undertaken in the course of the investigation. The final investigation report shall be provided to the District Internal Auditor (if conducted by another person), and to the Superintendent or designee , as

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appropriate.

5. If the District Internal Auditor believes that the integrity of the District's investigation is compromised because of the presence of any employee under investigation, such employee shall be removed from his or her current work activity until the investigation is complete.
6. The District Internal Auditor, or other person conducting the investigation, shall take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation.

Corrective Action

After the investigation is completed, the District Internal Auditor shall, in consultation with legal counsel as necessary, determine whether a violation of state or federal law or the District's compliance standards and policies has occurred. The District Internal Auditor shall, in consultation with legal counsel, the Superintendent or designee, and/or other appropriate the District personnel, develop a plan for corrective action to remedy the violation. Such plan for corrective action shall include, if applicable, any appropriate disciplinary action against any employees engaged in the misconduct or wrongdoing, in accordance with this Compliance Plan. Corrective action resulting from an investigation also may take the form of a systems change, an educational requirement or initiative, or a change in a policy, practice, or contract. The District Internal Auditor shall monitor the implementation of all corrective action plans on a regular basis to assure that the plans are properly implemented and the misconduct or wrongdoing has been corrected and has not reoccurred.

Reporting

As part of the District Internal Auditor's regular reports to the Superintendent or designee, the District Internal Auditor shall include a report summarizing all bona fide reports of wrongdoing, including the results of any investigation and any subsequent disciplinary or remedial actions taken.

Record-Keeping

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All records of reports of misconduct or wrongdoing, including initial reports, records of investigations, and corrective action plans, shall be prepared and maintained in such a manner as to preserve all applicable legal privileges, including the attorney-client, work product and self-evaluative privileges, as appropriate. All such records shall be retained for the period of time specified in the District's record retention policies.

Records of the investigation should document each of the following steps:

1. The alleged violation and how it was brought to the attention of the Compliance Officer.
2. A description of the investigative process (including methodology and verification of the objectivity of investigators).
3. Copies of key documents and a log of documents reviewed.
4. The results of the investigation (including disciplinary actions taken and corrective measures implemented).

The District Internal Auditor shall coordinate the preparation and retention of records with legal counsel when involved in the investigation.

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The information in this Notice describes the primary false claims laws that apply to the Aurora Public Schools District and the District's policies adopted to comply with such laws. This information is summary in nature and does not describe all applicable provisions, terms, conditions, limitations, and/or exception to the referenced laws.

A. Federal False Claims Act; 31 U.S.C. §§ 3729 – 3733. One of the primary purposes of the federal False Claims Act is to combat fraud and abuse in government health care programs. The False Claims Act does this by making it possible for the government to bring civil actions to recover damages and penalties when healthcare providers submit false claims. The False Claims Act permits qui tam suits as well, which are lawsuits brought by individuals against healthcare facilities that submit false claims.

The federal False Claims Act imposes liability on any person or entity who:

1. Knowingly files a false or fraudulent claim for payments to Medicare, Medicaid or other federally funded health care program;
2. Knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid or other federally funded health care program; or
3. Conspires to defraud Medicare, Medicaid or other federally funded health care program by attempting to have a false or fraudulent claim paid.
4. Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

While the False Claims Act imposes liability only when an individual acts "knowingly," the Act does not require that the person submitting the claims have actual knowledge that the claim is false. A person or entity who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information can also be found liable under the Act.

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Examples of violations of the False Claims Act may include the following:

- A health care provider submits a bill to Medicare or Medicaid for medical services the provider knows or should know were not provided;
- A health care provider who submits records to Medicare or Medicaid that the provider knows or should know are false and that indicate compliance with certain contractual or regulatory requirements that were not met; and
- A provider that obtains interim payments from Medicare or Medicaid throughout the year and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the government.
- A provider fails to timely return an overpayment received from the government when required.

A person or entity that violates the False Claims Act is liable for significant fines and penalties. The fines include civil money penalties vary depending upon the conduct but generally range from \$5,500 to \$11,000 per false claim, (adjusted for inflation) plus three times the damages sustained by the government because of the false claim and the government's costs of the civil action.

One of the unique aspects of the federal False Claims Act is the *qui tam* provision, commonly referred to as the whistleblower provision. This allows a private person with knowledge of a false claim to bring a civil action on behalf of the United States Government. The purpose of bringing the *qui tam* suit is to recover the funds paid by the Government as a result of the false claims. If the suit is ultimately successful, the whistleblower that initially brought the suit may be awarded a percentage of the funds recovered. Sometimes the United States Government decides to join the *qui tam* suit. The percentage the recovery awarded to the whistleblower is generally lower when the government intervenes. Additionally, the court may reduce a whistleblower's share of the proceeds if the court finds that the whistleblower planned and initiated the violation. A whistleblower that brings a clearly frivolous *qui tam* action can also be held liable for the defendant's attorneys' fees and costs.

The federal False Claims Act includes protections for people who file *qui tam* lawsuits. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in

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his employment as a result of the employee's lawful acts in furtherance of a false claims action is entitled to all relief necessary to make the employee whole. Such relief may include reinstatement, two times the amount of back pay, plus interest, and compensation for any special damages, including attorneys' fees and the costs of the litigation.

B. The 60-Day Overpayment Law. A section of the Affordable Care Act provides that a person who has received a Medicare or Medicaid overpayment must report and return the overpayment by the later of the date which is 60 days after the date on which the overpayment was identified or the date any corresponding cost report is due. This law specifies that any overpayment retained by a person after the 60-day deadline is an "obligation" for purposes of the False Claims Act. 42 U.S.C. § 1320a-7k(d). Final regulations implementing the 60-day overpayment law for Medicare Parts A and B were published on February 12, 2016 (the "60-Day Overpayment Rule"). Among other things, the 60-Day Overpayment Rule provides that the 60-day reporting period begins when a person has or should have, through the exercise of reasonable diligence, determined that the person has received an overpayment and quantified the amount of the overpayment. 42 CFR § 401.305.

D. The Program Fraud Civil Remedies Act of 1986; 31 U.S.C. §§ 3801 – 3812. The Program Fraud Civil Remedies Act of 1986 (the PFCRA) provides administrative remedies for knowingly submitting false claims and false statements to federal agencies. The PFCRA imposes liability on a person or entity that files a claim that is false or is supported by a written statement that is false or omits a material fact.

A violation of the PFCRA results in a maximum civil penalty of \$5,000 per each wrongfully filed claim, plus an assessment of up to twice the amount of each false or fraudulent claim that has been paid. These remedies are separate from, and in addition to, any liability that may be imposed under the federal False Claims Act.

E. Federal Anti-kickback Statute ("AKS"). The AKS is a criminal law that prohibits the knowing and willful offer, solicitation, payment or receipt of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs (e.g., drugs, supplies, or health care services for

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Medicare or Medicaid patients). Remuneration includes anything of value and can take many forms. Because the statute prohibits “knowing and willful conduct, a party's intent is a key element of their liability under the AKS. Safe harbors protect certain payment and business practices that could otherwise implicate the AKS from criminal and civil prosecution. To be protected by a safe harbor, an arrangement must fit squarely in the safe harbor and satisfy all of its requirements. A violation of the AKS may be the basis of false claims liability under the Federal False Claims Act. Additionally, criminal penalties and administrative sanctions for violating the AKS include fines, jail terms, and exclusion from participation in Federal health care programs. Persons who violate the Federal Anti-kickback Statute may also be liable for substantial financial penalties under the Federal Civil Monetary Penalties Law.

F. Colorado Fraud and Abuse Laws: Colo. Rev. Stat. §§ 25.5-4-304 et seq and 24-31-809. The State of Colorado has adopted a Medicaid False Claims Act that is generally comparable to the Federal False Claims Act and applies in the context of the Colorado Medicaid program. Colorado also has adopted a Medicaid Anti-Kickback Statute that is generally comparable to the Federal Anti-Kickback Statute but applies only in the context of the Colorado Medicaid program.

G. Aurora Public Schools District’s Policies. Aurora Public Schools District is committed to legal compliance. The District expects all employees, management, and contractors or agents to be aware of the laws regarding fraud and abuse and false claims, and to identify and resolve any issues immediately.

The District has adopted compliance policies regarding the detection and prevention of health care fraud and abuse. The compliance policies are available on the District’s website. These policies include the following:

- DIF-1-R, Code of Conduct for Medicaid Reimbursement
- DIF, 3-R, Investigating and Responding to Anti-Fraud and False Claims
- DIEA, Internal Audits

The District has also adopted a specific regulation regarding reporting suspected misconduct; entitled “DIF-2-R, Reporting Fraud and False Claims” establishes a reporting system whereby employees and

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other agents can report suspected criminal conduct or other violations of law, regulations or the District's policies by others within the organization without fear of retaliation.

All District employees and agents have a duty to report any suspected wrongdoing or violation of applicable laws, regulations or the District's compliance standards or policies. Suspected misconduct may be reported directly to the Internal Audit Department serving as the District Internal Auditor, Peter Doan, phone: 303-365-5815; email: pvdoan@aurorak12.org or the employee's supervisor, or by any other means established by the District Internal Auditor.

The District will treat such reports as confidential to the greatest extent feasible. Any form of retaliation against any employee or agent for filing a bona fide report is prohibited.

Employees, contractors and agents of the District are responsible for complying with applicable laws and the District's Compliance Policies. Contractors and agents are also responsible for assuring that their employees and agents comply with applicable laws and the District's compliance policies.

COMPLIANCE REPORTING FORM

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Compliance Report Form

No.: _____

Received: Date _____

Time: _____

Date Violation Occurred: _____

Report Received by: _____

Position: _____

Reporting Person: _____

Position: _____

Persons and/or Departments Involved: _____

Description of Incident: _____

Type of Report:

Dishonesty and/or Fraud: _____

Billing: _____

Safety/Health: _____

Conflict of Interest: _____

Other: _____

Report Completed by: _____

Date: _____

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