## ADOPTION OF THE DISTRICT'S MEDICAID COMPLIANCE PROGRAM

**WHEREAS,** the District participates in programs that provide services to Medicaid eligible individuals and received Medicaid reimbursement for such programs, including the School Supportive Health Services Program; and

**WHEREAS,** the New York State Office of the Medicaid Inspector General requires Medicaid providers to implement compliance programs aimed at detecting fraud, waste and abuse in the Medicaid program; and

**WHEREAS,** the District is committed to compliance with all applicable laws and regulations related to Medicaid billing and reimbursement; and

**WHEREAS,** the District has developed a Medicaid Compliance Program aimed to prevent inaccurate billing or inappropriate practices in accordance with New York Social Services Law section 363-d,

**NOW, THEREFORE,** the Board of Education resolves as follows:

1. The District's Medicaid Compliance Program is hereby approved.
2. Robert N. Fogel, Jr. is designated as the District's Medicaid Compliance Officer in accordance with the Program.
3. The Superintendent and the District's Medicaid Compliance Officer are hereby directed to take steps to implement the District's Medicaid Compliance Program.

## NEWARK CENTRAL SCHOOL DISTRICT
## MEDICAID BILLING COMPLIANCE PROGRAM

### INTRODUCTION

This Program is an integral part of the District's ongoing efforts to achieve compliance with federal and state laws relating to Medicaid billing for School Supportive Health Services ("SSHS") and other school programs. The Program creates a comprehensive system of oversight for Medicaid billing, reporting and practices.

The goal of this Program is to ensure that Medicaid eligible services are properly documented and accurately billed and that services rendered, but not properly documented are not billed. Moreover, the program establishes systematic checks and balances to detect and prevent inaccurate billings and inappropriate practices in the Medicaid Program.

The Program shall be overseen by the District's Medicaid Compliance Officer who shall report directly to the District's Superintendent of Schools. It remains, however, the

responsibility of each individual involved in the provision of services and the billing process to comply with the provisions of the law.

**MEDICAID COMPLIANCE OFFICER**

The District shall designate annually a Medicaid Compliance Officer. The Compliance officer shall be responsible for:

1. Day to day operations of the Compliance Program;
2. Providing guidance to District employees to ensure Medicaid billing compliance;
3. Development and delivery of District in-service training on compliance issues, expectations and maintenance of documentation for the same;
4. The coordination of system-wide and/or department-specific audits of records on an ongoing basis;
5. Communications to District employees and to service providers on any changes to the laws and regulations regarding Medicaid billing and the Program;
6. The investigation of allegations of improper billing practices and the reporting of the same.

The Compliance Officer shall report directly to the District's Superintendent of Schools and shall periodically report to the Board of Education on the District's Compliance Program.

**COMPLIANCE**

Billing for Medicaid eligible school services will be done in compliance with all applicable state and federal laws and regulations. Specifically, no bill for reimbursement shall be submitted unless it was actually performed and documented by the service provider.

The District is committed to maintaining the accuracy of every claim it processes and submits. Any false, inaccurate, or questionable claims should be reported immediately to the District's Medicaid Compliance Officer.

False billing is a serious offense. Federal and State rules prohibit knowingly and willfully making or causing to be made any false statement or representation of a material fact in an application for benefits or payments. It is also unlawful to conceal or fail to disclose the occurrence of an event affecting the right to payment with the intent to secure payment that is not due.

In addition to criminal penalties, the Federal False Claims Act permits substantial civil monetary penalties against any person who submits false claims. The Act provides a penalty of

triple damages as well as fines up to $10,000 for each false claim submitted. The persons involved in submitting false claims (as well as the District) may be excluded from participating in the Medicaid programs.

Numerous other federal laws prohibit false statements or inadequate disclosure to the government and mandate exclusion from Medicaid programs. It is illegal to make any false statement to the federal government, including statements on Medicaid claim forms. It is illegal to use the U.S. mail to scheme to defraud the government. Any agreement between two or more people to submit false claims may be prosecuted as a conspiracy to defraud the government.

The District promotes full compliance with each of the relevant laws by maintaining a strict policy of ethics, integrity, and accuracy in all its financial dealings. Each employee and professional, including outside consultants, who is involved in submitting charges, preparing claims, billing and documenting services is expected to maintain the highest standards of personal, professional and institutional responsibility. Individuals who fail to report suspected problems, participate in non-compliance behavior and/or encourage, direct or facilitate non-compliance behavior may be subject to disciplinary action in accordance with the provisions of New York law and any applicable collective bargaining agreement.

## EDUCATION AND TRAINING

It is the Compliance Officer's responsibility to ensure that every employee involved with the Medicaid service and billing process is educated about the applicable laws and regulations governing provider billing and documentation. Moreover, the District's Compliance Program shall be shared with all District employees, by available for inspection and shall be published on the district Website.

The Compliance Officer shall also develop, oversee and/or provide in-service training on Medicaid billing and documentation requirements for all staff involved in providing and/or billing for Medicaid services periodically and at other time, including initial employment or assignment. Such training shall be mandatory and the District shall maintain records of all trainings.

## REPORTING AND INVESTIGATION

### Reporting

Every employee in the District has the responsibility not only to comply with the laws and regulations, but to ensure that others do as well.

Employees must report non-compliance to their immediate supervisors, or the District's Compliance Officer. Supervisors are required to report these issues through established channels in Human Resources/Personnel and/or directly to the District's Medicaid Compliance Officer at the district office. Calls may be made anonymously, although the District encourages employees to provide their name and telephone number so that reports may be more effectively investigated.

Every attempt will be made to preserve the confidentiality of reports of non-compliance. All employees must understand, however, that circumstances may arise in which it is necessary or appropriate to disclose information. In such cases, disclosures will be on a "need to know" basis only.

Employees who believe that any practice or billing procedure related to Medicaid reimbursement of School or Preschool Supportive Health Services is inappropriate, may send information concerning such practice or billing procedure in writing to the State Compliance Officer by U.S. mail, courier service, e-mail or facsimile transmission. Disclosures may be made anonymously. An employee's verbal communication of any such allegation will not be sufficient to require any further action to be initiated under the Confidential Disclosure Policy procedures set forth below.

The Compliance Officer will send any disclosures to the relevant state agency and to the implicated local school district, if any. If the Compliance Officer is aware of the employee's identity, he/she will not reveal it to any other person without the employee's written consent, provided by U.S. mail, courier service, e-mail or facsimile transmission.

The relevant state agencies and local school district shall undertake a review of the practice described in the employee's disclosure without attempting to uncover the identity of the complaining employee and shall determine: (a) whether the employee's allegations are credible, (b) whether any federal or state statute, regulation or policy pertaining to any practice or billing procedure related to Medicaid reimbursement of School or Preschool Supportive Health Services has been violated and (c) whether any such violation is systemic or was limited to one or a small
number of cases.

The relevant state agencies and local school districts shall address any violation found during the review, whether systemic or limited, in a manner designed to avoid a similar violation in the future and to remedy the effect of the violation in the cases in which it was found to have occurred. If the review determines the violation was systemic, the

relevant state agencies and local school district shall take all steps necessary to identify the cases in which the violation occurred and then to remedy the effect of the violation in those cases.

Within 90 days of receiving notice from the Compliance Officer of the information provided by an employee, the relevant state agencies and local school district shall: (a) complete the review of such allegations and any remedial plan required as a result of such review and (b) provide to the Compliance Officer a written description of the review, the remedial plan and all actions taken pursuant to such plan. In the event the relevant state agencies and local school district determine the employee's allegations are not credible, the written response shall describe the bases for such determination. The written document shall identify the individual(s) at the
relevant state agencies and local school district who was(were) responsible for approving the review, the remedial plan and all actions taken pursuant to such plan, including the person's name, job title, telephone number, mailing address, e-mail address and fax number.

If the Compliance Officer is not satisfied with the review, the remedial plan, or the actions taken pursuant to such plan, he/she may discuss the matter with the relevant state agencies and local school district to resolve these concerns. In addition, the Compliance Officer may, if he/she considers it necessary to assure the State's compliance with the Compliance Agreement, request that the Audit Unit of DOH's Division of administration undertake an audit to determine: (a) whether a violation occurred, (b) whether any such violation has been remedied
and (c) whether the remedial action is sufficient to prevent similar violations in the future.

In the event the employee's identity becomes known to a relevant state agency or local school district or to an employee of such agency or district, no adverse employment action of any type shall be taken against such employee because he/she provided information to the Compliance Officer or to a person conducting a review of the disclosure.

The relevant state agencies and the local school districts shall include in every training any of them provides pursuant to the Compliance Agreement: (a) a description of the Confidential Disclosure Policy procedures described above, (b) the name, mailing address, e-mail address and fax number of the Compliance Officer, and (c) an assurance that no adverse employment action of any type will be taken against an employee because he/she provided information to the Compliance Officer or to a person conducting a review concerning alleged inappropriate practices or billing procedures related to Medicaid

reimbursement of School or
Preschool Supportive Health Services.

**Investigation**

The Compliance Officer will, personally or through his/her designee, investigate every report of non-compliance as soon as practicable. Investigations may include interviewing employees and/or reviewing documentation. Each employee must cooperate with such investigations.

Once the Compliance Officer completes an investigation, he/she will make a report to the Superintendent of Schools. The report will be the basis for the Compliance Officer's Program or recommendation of corrective action and/or discipline. Reports will be retained for a period of six years.

**Non-Retaliation**

It is the policy of the District that no person shall retaliate, in any form, against a person who reports in good faint, an act or suspected act of non-compliance (although employees may be disciplined for making intentionally false reports of non-compliance). Any person who is found to have retaliated for such a report shall be subject to discipline. In addition, the Federal False Claims Act and New York State Law provide certain protections to individuals who are discharged, demoted, suspended or threatened, harassed or discriminated against by their employer in retaliation for assisting in the investigation, initiation or prosecution of a False Claims Act violation or which constitutes health care fraud under the New York State Penal Law.

**Corrective Action/Sanctions**

In order to make this Compliance Program effective, the Compliance Officer will have authority to impose corrective action.

If a service provider or employee is found to be non-compliant in a Compliance Officer may require that person to undergo a session of education or training.

If a provider or other employee fails to comply with billing or documentation requirements repeatedly, sanctions may be more severe:

Plans of correction and discipline may include, but are not limited to:

1. A requirement to undergo training;

2. A period of required supervision or approval of documentation before bills can be issued;
3. Expanded auditing, internal or external, for some period of time until compliance improves;
4. Self-reporting of violations; and
5. In sufficiently egregious cases, discipline.

In addition, the Compliance Officer may recommend some other appropriate course of action to correct non-compliance.

**AUDITING/REVIEW**

Monitoring of compliance with billing rules is essential. The Compliance Officer must be able to ensure compliance through an understanding of current regulations and overall levels of compliance throughout the District at any given time.

Under this Plan, there will be both internal and external (i.e. by any independent consultant or other professional) auditing of Medicaid billing documentation. Internal auditing is done by the professional staff of the Compliance Officer, who will conduct periodic reviews.

The Compliance Officer may engage an external auditing firm as deemed necessary to assess the District's overall compliance. All employees must cooperate fully with this effort by making themselves and/or any pertinent documents available.

The external auditor will report to the Compliance Officer concerning the results of its investigation. The Compliance Officer will report, in turn, to the Superintendent of Schools and the Board of Education.

**ONGOING ASSESSMENTS**

The Compliance Officer will make an annual assessment of the success of this Compliance Program. That assessment will be based on the examination of results of internal audits and investigations, reports of any outside audits that may have been conducted, and/or his/her own personal experiences with the functioning of the Program over the previous year. A summary of this assessment shall be provided to the Superintendent of Schools and the Board of Education.

***Adopted: October 6, 2010***

***Revised: August 17, 2011***