

***The August Aichhorn Center's
Corporate Compliance Program ;
Guidance for all affected individuals***

Board of Directors Resolution of 12/13/19

By unanimous vote, the Board of Directors of the August Aichhorn Center hereby adopts the Corporate Compliance policies and procedures delineated in the Corporate Compliance Policy Manual dated October 31, 2019, which supersedes all corporate compliance documents referenced in the Board resolution on corporate compliance adopted December 4, 2007.

ELEMENT 1 WRITTEN POLICIES AND PROCEDURES

1.1 Written policies and procedures embodied in a code of conduct

Code of Ethical Conduct

1. When employees are acting in their job capacity, their personal conduct represents the conduct of the entire organization. The agency will conduct programs and services in a lawful and ethical manner and in full compliance with all federal state and local laws, rules and regulations. Any conduct which is contrary to our Code of Ethical Conduct will be considered a violation and cause for immediate disciplinary action, termination of employment or termination of contracts of services for vendors or independent contractors. Behavior that is unethical, dishonest, or exploitative is destructive and has no place in our work. The agency supports a work environment that is honesty and ethical.
2. All members of the August Aichhorn community will act and maintain the highest standards of conduct through observation of all applicable laws and regulatory requirements. The August Aichhorn agency will only employ or contract with individuals and entities with appropriate credentials, licenses and experience.
3. All claims for reimbursements or payments made by August Aichhorn will be honest and truthful; and substantiated by complete logs and records as required. No member of the August Aichhorn community shall make payments for referrals of patients of any kind. Any referrals to and from our facilities will be supported by proper documentation and meet guidelines of all involved regulatory entities. All billing claims must be made with every reasonable effort to ensure accurate and timely submission within compliance of federal laws and regulations and within guidelines of the August Aichhorn policies. August Aichhorn shall only bill for services actually rendered to patients present in the facility and documented in their medical records. No false claims for payment of any kind shall be submitted; neither falsification of any records used for billing shall be made and will not be tolerated. The agency will conduct an investigation to correct any errors in the claims that have been submitted and assess for corrective actions.
4. August Aichhorn's commitment to upholding a high-quality compliance program requires that the agency respond to violations in the form of internal investigation procedures, upon immediate discovery which necessitates a prompt response to violations and any voluntary disclosure in the form of either in person, openly or through the anonymous compliant box located at both RTF facilities near the administrative mailboxes at both locations, Brooklyn and Manhattan RTFs. All reports or complaints will be thoroughly investigated and promptly resolved. In order to meet this expectation, all members of the August Aichhorn community are expected to comply with all applicable laws, regulations and procedures and therefore is expected to report any violations to either their immediate supervisor, the Compliance Officer, or the Executive

Director. The August Aichhorn agency strives to support a culture of prevention and detection of fraud waste and abuse and employs a Non-Intimidation and Non-Retaliation for Good Faith Participation program which includes formal training and education to employees, Board of Directors and vendors on the agency's NYS Whistleblower Policy Statement during training on corporate compliance.

5. August Aichhorn is committed to maintaining ethical professional trustworthy relationships with its constituents. All members of the August Aichhorn community are expected to adhere to ethical standards of behavior while conducting business on behalf of August Aichhorn and to maintain and file accurate, complete and truthful records. This also includes any other communications among members of the August Aichhorn community; outside agencies both government and private. Employees or vendors shall not disclose any personal or confidential information concerning August Aichhorn programs or business matters outside of the agency's policy on privacy or confidential matters. All members of the August Aichhorn must adhere to the guidelines and procedures for disclosing information on any resident, employee or the agency which should be executed by the Compliance & Privacy Officer.
6. August Aichhorn supports a professional environment among all employees; so, if there are differences in opinions among staff, no staff member should resort to subordinate conduct and instead bring their issues to the attention of management. Our culture and environment should always be educational and meaningful for both staff and to the population we are entrusted to serve. The agency encourages all employees and vendors to work honestly which promotes trust and forthright representations of the August Aichhorn agency.
7. All members of the August Aichhorn community will have access to the required federal and state guidelines to fulfill their work requirements on behalf of August Aichhorn. Regular training will be provided to all members on a periodic basis at minimum, quarterly, and as needed. It is with every intent that the agency seeks to develop and educate staff working for the agency's RTF programs.
8. Ethical conduct free of conflict of interest (Financial Involvement): It is also important that all members of August Aichhorn not accept or give bribes of any kind from patients or their families or any government official. August Aichhorn will not accept any unethical behavior or appearances of that is likely to be outside of its mission and purpose. This is not only unethical; it will also speedily destroy the trust, tax exemption status, licenses or any other authorizations of the agency and integrity of the entire organization. Any evidence of violation of this policy will require immediate disciplinary action.

1.2 Written Policies and Procedures disseminated to all affected individuals

The current version of this Manual will be distributed upon employment and at least annually thereafter to all staff and other affected individuals and will be available online on the August

Aichhorn website. Vendors and independent contractors will have access to publications of the Corporate Compliance program via the agency's website and immediately upon request from by contacting the Corporate Compliance & Privacy officer.

1.3 Guidance for Individuals in Dealing with Specific Potential Compliance Issues

All policies and procedures detailed in this manual and other compliance documents are applicable to all affected individuals:

Rules Relating to Gifts:

As mentioned by the Agency's Code of Conduct, it is imperative for all members of the Aichhorn community to understand the ramifications of any perceived conflict of interest which some are outlined below for guidance purposes. It is not appropriate for individual members of the Aichhorn community to receive any cash or cash equivalents from agents conducting business with August Aichhorn. This also includes financial dealings with patients and should never occur. There are several reasons for this:

- 1) It creates a possibility of favoritism when any youngster is singled out in this way by a particular staff member.
- 2) It creates a possibility of exploitation by staff--a youngster could be (or feel) compelled to engage unwillingly in a transaction.
- 3) It creates a possibility (or appearance) of bribery of staff by patients, or of patients by staff, particularly if either party is subsequently accused of other inappropriate behavior.
- 4) It creates a possibility of staff involvement in undesirable patient behavior, particularly disposal of illegally obtained goods, or of inappropriate use of items obtained from parents, relatives, or the facility, that are intended for the patient's personal use.

For all of the above reasons, no individual staff member is to give or receive money or items of significant monetary value from any resident. No items should be bought, sold or given to or by residents, there should be no loans to or from residents, and there should be no gifts of significant monetary value (i.e. more than \$5) to or from residents.

Special jobs, gifts, or rewards offered by the facility to one or more youngsters are not affected by this policy. However, any other proposed exceptions must be discussed and submitted in advance and in writing by the treatment team including the youngster's unit leader, and the nature of the exception, its scope, and the reasons for it, must be documented in a clinical note in the patient's chart and submitted for approval by the Executive Director/ or designee (Compliance Officer). Approval will be based only on exceptional clinical needs, and a clear showing that the proposed transaction is not coercive and is likely to be a significant therapeutic benefit to the patient.

Conflict of Interest and Political Activities

Members of the Board of Directors may not be employed by or receive compensation from the Aichhorn Center or its subsidiaries except by special permission from the Office of Mental Health.

Members of the Board of Directors will annually disclose and review any potential conflicts of interest at the designated Board meeting.

The August Aichhorn Center encourages its employees to accept the personal responsibility of good citizenship, including participation in civic and political activities in accordance with their interests and abilities. The August Aichhorn Center accepts without reservation the basic democratic principle that all employees are free to make their own individual decisions in civic and political matters. Therefore, no employee's status with the agency will be affected, in any way, whatsoever, because of participation or non-participation in lawful civic and political activities outside of work.

Please recall, however, that as a publicly funded not-for-profit agency, The Aichhorn Center cannot itself become involved in political activities. Therefore, participation in civic and political activities is considered to be a personal matter and, as such, is to be carried on outside of normal working hours, and generally should not involve residents of the facility. No political activities or solicitations may be carried on within company premises.

Political activities are defined for purposes of this policy as activities in support of any partisan political issue or activities in support of, or in concert with, any individual candidate for political office, or a political party, which seek to influence the election of candidates to federal, state, or local offices. The definition includes employees who are or may be candidates for political office. The company reserves the right to deny time off for political activity where the activities, in the opinion of the company, would unduly interfere with the employee's fulfillment of any obligations to the company. However, when an employee's full time is required for political activity, a leave of absence without pay may be granted.

False Claims Act

August Aichhorn Center is in full compliance with the current laws around making false or reckless claims. As part of the agency's effective compliance program all members of the August Aichhorn community are required to be informed and educated on the New York State and federal government's False Claims Act (FCA), also known as the "Lincoln Law." This is a Federal law that imposes liability on persons and companies who knowingly submits false claims, uses false records, colludes with others to get false or fraudulent claims paid, uses a false or fraudulent record to conceal or avoid penalties. The Federal Government's priority is to combat fraud against the government. Anyone found violating

the FCA may face severe penalties including triple damages, fined between \$5,000 and \$11,000 for every false claim and criminal sentences is convicted facing up to five years in prison and/or \$10,000 in fines. FCA claims are initiated by either through a government employee or a private citizen. When a private citizen initiates a claim, these claims are called *Qui Tam* and the person making the claim are called *relator*. The relator will report all information about the false claim and after the federal government reviews the claim, the government can decide whether to take part in the lawsuit against the false claimant and the relator may receive a portion of the amount that is fully recovered (15-25%). A relator (private citizen) may pursue the lawsuit with or without the participation of the federal government. The FCA protects any relator making a claim in good-faith from retaliation, retribution, suspension, threats, discharges, or harassment. If violated, the relator is entitled to reinstatement, with interest and any other legal fees incurred. New York State maintains its own False Claims Act and can be found as an attachment to this policy. There are no criminal penalties in New York; however, if an individual or agency has been found to be violating the FCA, participation in the Medicaid program will be revoked. As a member of the Aichhorn community and you become aware of any false claims made, it is imperative that you report the activity immediate using any one of the reporting methods mentioned by this policy including your immediate supervisor, the Compliance & Privacy Officer, the Executive Director or through the anonymous reporting box.

Whistleblowers Policy Statement

The August Aichhorn Center's Code of Ethics and Conduct requires directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities in all business dealings. All employees and representatives of the Organization are encouraged to report and disclose any concerns regarding perceived violations of federal and state laws and regulations or of any financial irregularities.

We must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. The August Aichhorn Center is also committed to preventing and detecting any fraud, waste and abuse related to federal and state health care programs. Reports can be made by any employee or vendor without fear of reprisal to any one of the following persons; Corporate Compliance & Privacy Officer (Administrative Director), Incident Investigator or the Executive Director either confidentially, anonymously or openly in person, in writing, email, and by telephone. Any person making a report and wishes to remain confidential may do so in writing by sending their concerns by US mail or Interoffice mail, or through the anonymous reports box at the Brooklyn and Manhattan facilities or by contacting the Compliance Officer directly at 212-316-9353. Employees and vendors may also report their concerns to the appropriate Federal and State authorities without fear of reprisal. Regardless of the method, all reports will be treated as a confidential and sensitive matter.

The August Aichhorn Center seeks to maintain an effective corporate compliance program and strive to educate our workforce on fraud and abuse laws, including the importance of submitting accurate claims and reports to the federal and state governments. The Non-Retaliation for Good-Faith participation to reporting compliance issues means that any/all compliance issues can be reported and no retribution or retaliation will be made against the reporters. In the event that an investigation commences with a determination that a report was maliciously or falsely made, the agency will take the necessary appropriate actions against the person making the report. It is important to make good-faith reports based on perceived violations of federal, state or the agency's code of conduct.

Element 2

2.1 - Designation of responsible individual

The Administrative Director is designated as the Corporate Compliance Officer and reports any allegations promptly to the Executive Director and to the President of the Board.

2.2 - Other responsibilities of the Compliance Officer

The Administrative Director has additional responsibilities outside the Compliance Program as enumerated in the Job Description of the Administrative Director.

2.3 Execution of compliance activities

The Compliance Officer is responsible for the day to day operations for developing and implementing the agency's compliance program. The Compliance Officer will investigate and resolve all reported complaints and allegations concerning violations of the Code of Ethical Conduct to report results to the Executive Committee. A thorough investigation will be conducted whenever there is a violation and noncompliance issue. The final report will be reviewed by the Committee and filed with the Compliance Officer.

The anonymous compliant box will be monitored, transcribed, logged and all complaints will be investigated by the Compliance Officer. Documentation of all complaints made will be maintained by the Compliance Officer.

The Compliance Officer will assure that compliance training is provided to new employees upon initial hire and annually thereafter. All employees will receive training/or education at least annually. Evidence of training will be filed with the Training Director and in the employees HR file and with the contract of the vendor.

The Board of Directors will address all reported concerns or complaints regarding corporate accounting practices, internal controls or auditing. The Compliance Officer will immediately notify the Board of any such complaint and work with the Board until the matter is resolved. Reporting to the Board will occur at minimum annually.

The Corporate Compliance Committee will meet at least quarterly, and be chaired by the Compliance Officer. The committee will identify and conduct regular and routine reviews of all risk areas (see Elements 6 and 7). The Compliance Officer is responsible for following up all findings and corrective actions recommended by the Committee. Follow-up of all corrective actions will be documented and filed appropriately.

2.4 Compliance Officer reports directly to the Executive Director

The Compliance Officer reports directly to the Executive Director. (see also attached Table of Organization)

2.5 Compliance Officer reports to the governing body

The Compliance Officer attends all meetings of the Board of Directors.

ELEMENT 3 -Reinforcing Compliance through Training and Improvement

Element 3.1 - Periodic training and education

August Aichhorn is committed to staff development in compliance areas where knowledge of applicable laws, regulations and policies and procedures is necessary for performance of their roles. All affected individuals, including vendors as well as all active employees, have unhindered access to the compliance program as it relates to their roles and to others.

The Board of Directors and the Executive Director will receive annual training in the Corporate Compliance program at the Board's Annual Meeting meeting.

All active employees receive regular and routine training on the agency's corporate compliance program at least once a year. Documentation of this training will be filed by the agency's Training Director. All employees receive annual training as it pertains to Federal, state and local laws. All members of the staff receive written documentation of their obligations in supporting the Corporate Compliance Program as well as the relevant State and Federal laws. Specific steps regarding specific compliance issues are included prominently in the Employee Manual and the Patient Management Manual. In addition, a general presentation on the overall privacy rules including the privacy provisions of the HIPAA is included in the mandatory initial staff orientation, and specific discussion of various elements of the privacy rules is included in the mandatory quarterly staff training sessions. Quarterly training sessions will review topics including (but not limited to) privacy policy and use of the Aichhorn Clinical Record System, Code of Ethical Conduct, ethical standards, integrity, documentation, Federal and State guidelines, mandatory reporting, consequences of non-compliance.

3.2 - Compliance training during orientation

The Corporate Compliance Officer will initiate training in corporate compliance and receive the Compliance Manual at the time of hire, and all new employees will receive a comprehensive review presented by the Training Coordinator, the Incident Investigator, the Quality Improvement Coordinator, and the Executive Director as part of the mandatory new hire orientation which is conducted within sixty days of hire.

ELEMENT 4 - Lines of Communication for detecting Compliance issues and On-going Monitoring

4.1 - Communication with compliance personnel

Anyone with information regarding corporate compliance issues may make a report anonymously or otherwise, in person or in writing, without fear of reprisal to any one of the following persons; Corporate Compliance & Privacy Officer (Administrative Director), Incident Investigator or the Executive Director either confidentially, anonymously or openly in person, in writing, email, and by telephone. Any person making a report who wishes to remain anonymous may do by sending their concerns by US mail or through the anonymous reports box at the Brooklyn and Manhattan facilities, or by contacting the Compliance Officer directly at 212-316-9353. All reports will be reviewed investigated.

Depending on the nature of the report, the Compliance Officer may delegate investigation to the most appropriately trained personnel. The Corporate Compliance Officer will ensure that all reports made in good-faith will not result in retribution or retaliation.

4.2 - Accessibility of lines of communication

The lines of communication detailed in Element 4.1 above are accessible to all affected individuals including employees, executives, Board members, vendors and other persons associated with August Aichhorn.

4.3 - Anonymous communications

Anonymous report mailboxes are available in the administrative offices at both locations, which are not monitored by CCTV. Announcement of the existence of these mailboxes is posted in the lobbies at both locations.

ELEMENT 5 - Disciplinary Policies to Encourage Good-Faith Participation-Enforcement of Disciplinary Practices

5.1 Disciplinary policies to encourage participation

All members are expected to follow the agency's Code of Ethical Conduct and Compliance guidelines in addition to other policies and procedures that have been set forth by the agency. Any employee, Board member, vendor or independent contractor who fails to uphold the agency's standards for providing ethical service is subject to disciplinary action or termination of affiliation. Progressive discipline may or may not be employed and the agency

reserves the right to terminate services of any employee, vendor or independent contractor at any time with or without notice.

5.2 - Expectations for reporting

All perceived non-compliance issues must be reported. Failure to report will result in disciplinary action (see 5.3 below) or termination of business services if provided by a vendor or independent contractor.

It is against agency policy to participate in, encourage, direct, facilitate or permit non-compliant behavior and is grounds for immediate termination and for reporting to the appropriate authorities if applicable.

5.3 - Requirement to cooperate in resolving issues

Failure to comply with any investigation or to provide an accurate statement is grounds for disciplinary action up to and including termination of employment or of business relationships.

5.4 - 5.7 - Policies that outline sanctions for failure to report, participation, or encouraging, directing or facilitating non-compliant behavior

The following are definitions and classification of violations, for which administrative actions such as corrective counseling, performance improvement, or other disciplinary action may be taken. (These are merely illustrative and not limited to these examples):

Minor violations: Less serious violations that have some effect on the continuity, efficiency of work, safety, and harmony within the organization. They typically lead to corrective counseling unless repeated or when unrelated incidents occur in rapid succession. Some illustrative examples of minor violations are as follows:

- A. Excessive tardiness;
- B. Excessive absenteeism;
- C. Failure to observe working hours such as the schedule of starting time, quitting time, rest and meal periods;
- D. Performing unauthorized personal work on the company's time;
- E. Failure to notify the supervisor/manager of intended absence either before or within one hour after the start of a shift;
- F. Unauthorized use of the company telephone or equipment for personal business.
- G. Knowingly disregarding safety policies or failing to report a significant safety hazard.

Major Violations-More serious violations. They include any deliberate or willful infraction of important rules such as those discussed under "General Expectations" and "Specific Workplace Issues" above, and may preclude continued employment of an employee. Following are some illustrative examples of major violations:

- A. Any act which might endanger the welfare, safety or lives of others. This includes lapses in supervision.
- B. Departing from the premises during working hours for personal reasons without the permission of the supervisor/manager;
- C. Bringing alcohol or illegal substances onto the premises;
- D. Deliberately stealing, destroying, abusing, or damaging property, tools, or equipment including use of unauthorized equipment or software on the computer network
- E. Disclosure of confidential information to unauthorized persons;
- F. Willfully disregarding established policies or procedures;
- G. Willfully falsifying any records;
- H. Failing to report to work without excuse or approval;
- I. Disorderly or verbally abusive behavior.
- J. Repeated unsafe behavior or behavior that repeatedly ignores safety policies.
- K. Not completing and signing clinical documents or intentional omission of information.
- L. Misuse or misappropriating agency funds.

Element 6 - A System for Routine Identification of Risk Areas

6.1 & 6.2 - System for identifying and evaluating specific compliance risk areas

The AAC has complex systems in place dedicated to the routine identification of specific risk areas, for the evaluation of potential or actual non-compliance, and for the credentialing of providers and persons. These systems address the investigation of identified problems, the response to such problems, their correction, and corrective action to prevent their recurrence.

These systems include, but are not limited to, the AAC's Quality Improvement program, the annual Inspection of Care Audit, the annual fiscal audit, as well as the surveys by The Joint Commission and the New York State Office of Mental Health. When indicated, identified compliance issues will be reported to the Department of Health or the OMIG and over payments will be refunded.

The agency has formulated a complete policy on Quality Assurance and Utilization Review which is contained in the Quality Assurance and Utilization Review Manual.

Additionally, the business office maintains ongoing computerized monitoring of expenditures in each category of the New York State Consolidated Fiscal Report (CFR). The CFR itself, reflecting total spending in each category for the fiscal year, is prepared each fall, audited by an independent certified accounting firm which also prepares the agency's annual financial

statement and tax returns, and submitted to the State Office of Mental Health and the State Education Department by the business office, with the signature of the Executive Director.

The Planning Director, who oversees all fiscal records, provides regular updates of actual and projected expenditure in various categories to the Administrative Director, who oversees most categories of discretionary expenditure (see below).

6.3 - Evaluation of non-compliance

The Compliance Officer will report any evidence of possible or actual non-compliance to the Compliance Committee which will take action to correct, mitigate or avoid the non-compliant action(s) or behavior(s). (See Element 2.3 "Execution of Compliance Activities") above.

Element 7 - Responding to compliance issues

7.1 written procedures for compliance

Please see Element 1 and Elements 2.1 and 2.3

7.2 system for responding to compliance issues

The Compliance Officer may refer determinations of fact regarding compliance issues to the Incident Investigator, who is trained in conducting and documenting investigation interviews, and who reports the information obtained from witness statements and other documentation to the Compliance Officer and the Compliance Committee.

In the event that an issue has resulted in, or could have resulted in, a serious adverse outcome, a full root cause analysis may be conducted following procedures established by the Joint Commission.

7.3 system for correcting compliance problems

Compliance problems must be addressed and corrected promptly and thoroughly. Any identified compliance issues are documented along with the corrective actions required by the Compliance Committee, the individual(s) responsible for these actions, and the date by which the actions will be completed.

7.4 policy and procedural improvements to prevent compliance problems

When appropriate, the Compliance Committee may request that changes be made in the policy and procedures as documented in the relevant manuals. The Executive Director will be responsible for implementing these modifications.

7.5 reporting issues to the DOH or the OMH

Fiscal management includes the following functions: preparation of the overall agency budget and allocation of budgeted funds among various functions; development and implementa-

tion of compensation and personnel policies; expenditure reporting and rate negotiations with funding agencies; assuring financial eligibility for reimbursement for all patients; billing and accounts receivable; time-keeping and time and leave and payroll management; purchasing; management of employee benefits; management of tax and other mandated payments; management of agency insurance coverage; management of patient funds; auditing; legal affairs; labor relations; and fiscal reporting to the Board and to government oversight agencies and auditors. These functions are divided between the Administrative Director and the Planning Director and their respective staffs, under the supervision of the Executive Director. The Planning Director is the chief financial officer of the agency and supervises the functions of the central business office at 72nd Street. The Administrative Director oversees all support operations at the RTF, including personnel services.

All reports and responses to inquiries by public funding and oversight agencies are handled by the Planning Director. This includes preparation and submission of formal annual audited fiscal reports, reimbursement rate documentation and grant accounting, on-line reporting of patient characteristics and various reportable patient care events, formal and informal discussion of specific actual or contemplated expenditures and their financial impact and categorization for reimbursement purposes, inquiries about the agency's overall financial position, and audits and reviews.

7.6 - system for refunding Medicaid overpayments

The effectiveness of the corporate compliance program is monitored on an ongoing basis by the Executive Committee through quality improvement and utilization review.

Planning office staff receive, record, and deposit payments from the Medicaid system, review these payments for discrepancies and dis-allowances, and resolve any questions raised by the payment agency. Since most of the discrepancies involve issues of client eligibility, this office maintains a close relationship with the OMH Special Projects Unit that acts as liaison with the Department of Social Services in certifying and maintaining resident eligibility status.

The planning office reviews the validity and accuracy of fiscal actions on a regular basis. In collaboration with the Board audit and compliance committee, and the independent auditors, the Planning Director assesses areas of risk for compliance failures, evaluates these areas, develops and executes audit plans, responds promptly to any non-compliance by recommending remedial action to the Executive Committee.

ELEMENT 8 - Non-Intimidation and Non-Retaliation Policy

8.1 - non-intimidation/non-retaliation

No director, officer or employee who in good faith reports a violation of the Code shall suffer harassment, retaliation or adverse employment consequence. An employee who intimidates or retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.

The Corporate Compliance document provided to all affected individuals at least annually includes copies of New York Labor Law Sections 740 and 741. See appendix.

See also "Whistleblower Policy Statement" in Element 1.3

CORPORATE COMPLIANCE HANDOUT

IMPORTANT POINTS

- 1) The corporate compliance program applies to all aspects of AAC's operations: billings, payments, medical necessity and quality of care, governance, mandatory reporting, credentialing, and all other risk areas, and applies to all agents of AAC (including Board Members, staff and independent contractors) and to all vendors and suppliers.
- 2) The written policies and procedures of the corporate compliance program incorporated in the AAC Corporate Compliance Manual, Employee Manual and Patient Management manual describe the expected code of ethical conduct, outline the operation of the program, provide guidance regarding potential compliance issues, identify the how to communicate regarding such issues, and describe how potential problems are investigated and resolved. These policies and procedures are distributed to all employees and are reviewed regularly in training.
- 3) The Administrative Director is the primary compliance officer, reports any allegations promptly to the Executive Director, and to the President of the Board..
- 4) Employee education and training which occurs at least annually includes information on compliance issues, expectations, and the program's operations. Orientation for new employees also contains this information. Training is also provided annually to the Board of Directors.
- 5) The good faith identification of compliance issues may be reported either through an individual's line of supervision or directly to the Administrative Director, and may be reported anonymously and will be treated as confidential.
- 6) Disciplinary action may be taken for the failure to report suspected problems, for participation in non-compliant behavior, for in any way encouraging, directing, facilitating, or permitting such behavior. Disciplinary actions shall be fairly and firmly enforced.
- 7) The AAC has complex systems in place dedicated to the routine identification of specific risk areas, for the evaluation of potential or actual non-compliance, and for the credentialing of providers and persons. These systems address the investigation of identified problems, the response to such problems, their correction, and corrective action to prevent their recurrence. These systems include, but are not limited to, the AAC's Quality Improvement program, the annual Inspection of Care Audit, the annual fiscal audit, as well as the surveys by The Joint Commission and the New York State Office of Mental Health. When indicated, identified compliance issues will be reported to the Department of Health or the OMIG and over payments will be refunded.
- 8) The AAC is committed to a policy of non-intimidation and non-retaliation for good faith participation in the compliance program.
- 9) The effectiveness of the corporate compliance program is monitored on an ongoing basis by the Executive Committee through quality improvement and utilization review.

AUGUST AICHHORN CENTER
CORPORATE COMPLIANCE

POLICY: AAC is committed to complying with the requirements of the federal Deficit Reduction Act of 2005 and to preventing and detecting any fraud, waste or abuse in its organization.

STATEMENT OF PURPOSE: The purpose is to insure compliance with certain requirements set forth in the federal Deficit Reduction Act of 2005 with regard to federal and state false claims laws and whistleblower protections.

AAC is committed to preventing and detecting any fraud, waste and abuse related to federal and state health care programs. AAC maintains an effective Corporate Compliance program and strives to educate our workforce on fraud and abuse laws, including the importance of submitting accurate claims and reports to the federal and state governments.

PROCEDURES/GUIDELINES:

1. AAC has adopted and implemented a Corporate Compliance Program, whose mission in part is detecting and preventing fraud, abuse and waste. The Corporate Compliance Officer (AAC's Administrative Director) has primary responsibility and oversight of these activities.
2. As part of AAC's commitment to ethical and legal conduct, employees are required to report concerns and issues, suspected or actual, through an employee's administrative chain of command, starting with their respective immediate supervisor, or, directly to the Corporate Compliance Officer.
3. Employees are required to fully cooperate in any investigation. Failure to report and disclose or assist in an investigation is a breach of the employee's obligations and may result in disciplinary action.
4. There shall be no retaliation, reprisals or retribution against employees resulting from "good-faith" reporting of concerns or violations. A good-faith report is defined as one in which an employee reports activities that he or she truly believes have occurred and that violated the Code of

Conduct or other law, regulation or standard.

5. AAC prohibits the knowing submission of a false claim for payment from a federally or state funded health care program (Le. Medicaid). Such a submission is a violation of federal and state laws and can result in significant administrative and civil penalties under the federal False Claims Act and the New York State False Claims Act, among other laws. These are laws that allow private citizens to help reduce fraud against the federal government and state government, respectively.

6. This policy shall be provided to all current and new employees as well as to contractors and vendors. Moreover, a summary of the relevant anti-fraud federal and state laws, as well as whistleblower protections will be detailed in AAC's upcoming version of the Employee Manual.

7. The following is a summary of the federal False Claims Act, the federal Program Fraud Civil Remedies Act, the New York False Claims Act and certain other relevant New York State laws, as well as laws pertaining to whistleblower protections:

FEDERAL AND NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

FEDERAL LAWS

False Claims Act (31 USC §§3729-37332)

The False Claims Act ("FCA") provides, in part, that:

(a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government... or (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a

civil penalty of not less than 85,000 and not more than \$11,000, plus three (3) times the amount of damages which the Government sustains because of the act of that person.

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that 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. While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. (31 U.S.C. 3729(b)).

In sum, the FCA imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician, who submits a bill to Medicare for medical services she knows she has not provided. The FCA also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows (or should know) is false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called "reverse false claim" may include a hospital who obtains interim payments from Medicare 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 Medicare program.

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* relators," 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* relator, 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 relator substantially contributed to the prosecution of the action. When the Government does not intervene,

section 373 O(d)(2) provides that the relator shall receive an amount that the COUIt decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

Administrative Remedies for False Claims (31 USC Chapter 38. §§3801 3812)

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

II. NEW YORK STATE LAWS

New York's false claims laws fall into two categories: civil and administrative; and criminal laws. Some apply to recipient false claims and some apply to provider false claims, and while most are specific to health care or Medicaid, some of the "common law" crimes apply to areas of interaction with the government.

A. CIVIL AND ADMINISTRATIVE LAWS

New York False Claims Act (State Finance Law. §§187-194)

The New York False Claims Act closely mirrors the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government's legal fees.

The New York False Claims Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the lawsuit eventually concludes

with payments back to the government, the person who started the case can recover 25-30% of the proceeds if the government did not participate in the lawsuit or 15-25% if the government did participate in the lawsuit.

Social Services Law §145-b, False Statements

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may recover three (3) times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$2,000 per violation. If repeat violations occur within 5 years, a penalty up to \$7,500 per violation may be imposed if they involve more serious violations of Medicaid rules, lulling for services not rendered or providing excessive services.

Social Services Law §145-c, Sanctions

If any person "applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's, the person's family's needs are not taken into account for 6 months if a first offense, 12 months if a second (or once if benefits received are over \$3,900) and five years for 4 or more offenses.

B. CRIMINAL LAWS

Social Services Law §145, Penalties

Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

Social Services Law § 366-b. Penalties for Fraudulent Practices

a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a Class A misdemeanor.

b. Any person who, with intent to defraud, presents for payment and false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

Penal Law Article 155, Larceny

The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. It has been applied to Medicaid fraud cases.

a. Fourth degree grand larceny involves property valued over \$1,000. It is a Class E felony.

b. Third degree grand larceny involves property valued over \$3,000. It is a Class D felony. .

c. Second degree grand larceny involves property valued over \$50,000. It is a Class C felony.

d. First degree grand larceny involves property valued over \$1 million. It is a Class B felony.

Penal Law Article 175, False Written Statements

Four crimes in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:

a § 175.05, Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a Class A misdemeanor.

b. § 175.10, Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its commission. It is a Class E felony.

c. §175.30, Offering a raise instrument for filing in the second degree involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information. It is a Class A misdemeanor.

d §175.35. Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a Class E felony.

Penal Law Article 176, Insurance Fraud

Applies to claims for insurance payment, including Medicaid or other health insurance and contains six crimes:

- a. Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
- b. Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is a Class E felony.
- c. Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a Class D felony.
- d. Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a Class C felony.
- e. Insurance fraud in the 1st degree is filing a false insurance claim for over \$1 million. It is a Class B felony.
- f. aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

Penal Law Article 177, Health Care Fraud

Applies to claims for health insurance payment, including Medicaid, and contains five crimes:

- a. Health care fraud in the 5th degree is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions. It is a Class A misdemeanor.
- b. Health care fraud in the 4th degree is filing false claims and annually receiving over \$3,000 in aggregate. It is a Class E felony.
- c. Health care fraud in the 3rd degree is filing false claims and annually receiving over \$10,000 in the aggregate. It is a Class D felony.
- d. Health care fraud in the 2nd degree is filing false claims and annually receiving over \$50,000 in the aggregate. It is a Class C felony.
- e. Health care fraud in the 1st degree is filing false claims and annually receiving over \$1 million in the aggregate. It is a Class B felony.

III. WHISTLEBLOWER PROTECTION

Federal False Claims Act (31 U.S.C. §3730(10))

The FCA provides protection to *qui tam* relators who are 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. (31 U.S.C. 3730(h)). Remedies include reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

New York False Claims Act (State Finance Law §191)

The New York False Claims Act also provides protection to *qui tam* relators who are 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 Act. Remedies include reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

New York Labor Law §740

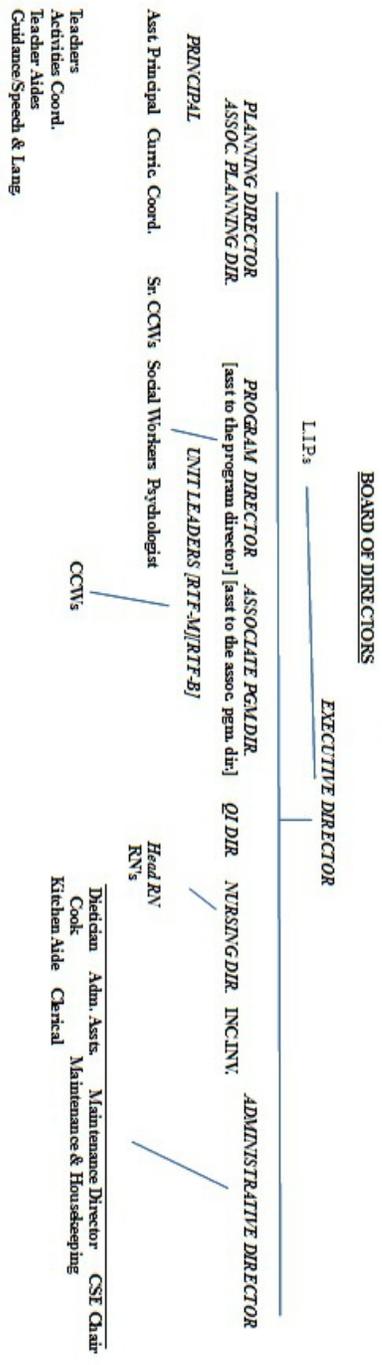
An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law §177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's

disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

New York Labor Law §741

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

Table of Organization



Notes:
 Principal and school staff employed by separate entities: The Alldon School
 UPPER CASE TRAILICS = senior staff (Exec. Committee)