#### MEDICAID COMPLIANCE PLAN

#### Cross-ref:

42 USC 1396(a)(68) [generally] NYS Social Services Law 363-d Chapter 442 of the Laws of 2006 18 NYCRR Part 521

# **Board Policies**

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1120 School District Records

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4321 Students with Disabilities Under I.D.E.A. and Article 89

4321.2 Preschool Special Education

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## I. INTRODUCTION

This compliance Plan is adopted pursuant to and in accordance with Chapter 442 of the Laws of 2006 and corresponding regulations (see 18 NYCRR 521 *et. seq.*) to improve efficiency and accountability and streamline processes related to Medicaid fraud, detection and prevention in the Corning Painted Post Area School District (hereinafter, the "District").

This Medicaid Compliance Plan for the District (hereinafter "Plan") provides the foundation for the District's Medicaid Compliance Program required by 18 NYCRR 521 et. seq. (hereinafter, the "Program"). Fundamentally, any individual working at and associated with the District as an employee, contractor or otherwise, is required to conduct all business activities honestly and fairly and in compliance with the Program.

# II. <u>DEFINITIONS</u>

For purposes of this Plan, the following terms have the following meanings:

- A. "Affiliate" means any person or entity controlled by, or under common control with the District.
- B. "Board" means the Board of Education of the District.
- C. "Contractor" means an individual who:
  - a. has an independent contractor agreement with the District to provide goods or services to the District, or
  - b. owns, is employed by, or otherwise works for an organization with such a contract, and who has direct contact with any employee in performing the contract.
- D. "CO" means the Compliance Officer who is assigned responsibility for overseeing the development, implementation and operation of the Program.
- E. "District" means the Corning Painted Post Area School District.
- F. "Employee" means an employee of the District.
- G. "Participant" means an individual subject to the program, including all employees, all members of the Board, all officers of the District, and all contractors and professional staff members whom the Board determines should be subject to the Program.
- H. "Policies and Procedures" means the policies and procedures adopted by the Board which implement the terms and conditions of this Plan.
- I. "Program" means the District's Medicaid Compliance Program, including this Plan and the related Policies and Procedures.

- J. "Superintendent" means the Superintendent of Schools of the District, including any acting or interim superintendent who may be appointed by the Board.
- K. "Standards of Conduct" means this Program's Code of Conduct and the District's Code of Ethical Behavior, as set forth in the Board policy.

# III. CODE OF CONDUCT AND COMPLIANCE EXPECTATIONS

#### A. Mission/Value Statement:

The District's Mission Statement as set forth in Board Policy 9000 0001 is incorporated by reference herein and made a part of this Plan.

The District believes dedication to high ethical standards and compliance with all applicable laws and regulations is essential to fulfilling its mission. In the context of Medicaid compliance, the Program requires all participants comply with applicable federal, state and local laws and regulations including standards of conduct when addressing the needs of students, third-party payors, regulatory agencies, subcontractors, contractors, vendors, consultants and one another. This Plan is a critical component of the overall Program, guiding and assisting the District and each Participant to carry out their daily activities in accordance with appropriate ethical and legal standards.

- B. Code of Conduct and Code of Ethics: The District believes in high ethical standards and compliance with applicable laws and regulations essential to its mission. District polices related to codes of conduct and ethics are hereby incorporated by reference and made part of this Plan.
- C. Conflicts of Interest: Potential conflicts of interest shall be disclosed to the CO promptly upon reasonable suspicion that a conflict of interest exists. The District and each Participant must comply with all applicable state and federal laws relating to conflicts of interest, including but not limited to applicable provisions of the New York Town Law, the New York Education Law and the New York Public Officers Law.

#### D. Prevention of Fraud, Waste and Abuse

1. The Centers for Medicare and Medicaid Services (CMS) define "fraud" as an intentional deception or misrepresentation that an individual knows or should know to be false, or does not believe to be true, and which the individual makes knowing that the deception or misrepresentation could result in an unauthorized benefit to himself or others. Fraud occurs when an individual or entity purposely bills for a service that was never provided or for a service that has higher reimbursement than the actual service produced. CMS defines "abuse" as a range of improper behaviors or billing practices,

including: (i) billing for a non-covered service; (ii) misusing codes on the claim; or (iii) inappropriately allocating costs on a cost report.

Federal and New York State criminal and civil laws pertain to fraud and abuse in the submission of claims for payment or approval to the federal and state governments and to private payors. These laws provide: (i) governmental authorities broad authority to investigate and prosecute potentially fraudulent activities, (ii) criminal, civil and administrative penalties for fraudulent or abusive activities, and (iii) anti-retaliation provisions for individuals who make good faith reports of waste, fraud and abuse.

- 2. The District is committed to compliance with all applicable state and federal laws related to fraud, waste and abuse. To that end, specific compliance standards have been adopted and included in this Plan and made a part of the Program.
- 3. With respect to certain services provided by the District, the District is deemed a health care provider under the Health Insurance Portability and Accountability Act of 1996, PL. 104-191, 110 Stat. 1936 (1996) (HIPAA). The District is committed to compliance with all HIPAA requirements, having implemented policies and procedures to maintain the privacy and security of protected health information. Except in certain enumerated situations, the District obtains a HIPAA compliant authorization prior to using or disclosing that protected health information. The District enters into contractual agreements with business associates (e.g., vendors and suppliers) to assure they use, disclose and secure protected health information appropriately.
- 4. All business relations with vendors, contractors and other third-parties, including health care providers, are conducted at arm's length and for fair market value.
- 5. The District strives to ensure financial reports, accounting records, research reports, expense accounts, time sheets, and other financial documents accurately represent the performance of operations. District employees are trained to maintain information required for compliance with District policies and procedures, accreditation standards, and any other laws or regulations.
- 6. The District has established and maintains procedures to ensure a system of internal controls which provides assurance that financial records are executed and retained consistent with federal, state and local regulatory requirements and accounting industry guidelines.

<sup>&</sup>lt;sup>1</sup> U. S. Department of Health, Centers for Medicare and Medicald Services, <a href="http://www.cms.hhs.gov/apps/glossary">http://www.cms.hhs.gov/apps/glossary</a>

- 7. The District strives to ensure records are timely prepared and properly supported.
- 8. The District strives to ensure claims are submitted only for services believed to be medically necessary and ordered by a physician or other appropriately licensed individual. The District requires that documentation be maintained to support the medical necessity of a service. Medicare, Medicaid and other health care plans will provide coverage for medical services that meet standards for medical necessity. Providers may not bill for services that do not meet the applicable standards.
- 9. In addition to facilitating high quality health care, a properly documented medical record verifies and records precisely what services were actually provided. The medical record may also be used to validate: (a) the site of the service; (b) the appropriateness of the services provided; (c) the accuracy of the billing; and (d) the identity of the care giver (service provider.)

#### E. Confidentiality

- 1. The District shall maintain confidentiality disclosure mechanisms which enable employees to disclose to the CO anonymously any practices or billing procures deemed by the employee to be inappropriate. Board Policy related to complaints (9140.1) and Prohibition of Retaliatory Activity (Whistleblower) (9645) are incorporated herein by reference.
- 2. Consistent with its duty of confidentiality, the District hereby includes in this Plan the State Confidential Disclosure Policy for New York State which is appended hereto as Appendix A.

# F. Compliance

The District includes herein and attaches as Appendix B hereto, New York State's Policies regarding its Commitment to Ensure Compliance with the Laws and Regulations Related to the Receipt of Federal Medicare Financial Participation in the School and Preschool Supportive Health Services Program.

# IV. PLAN ADMINISTRATION - COMPLIANCE OFFICER

- A. **Designation:** The responsibility for the direction and operation of the Program is vested in the CO. The CO shall be appointed by, and report directly to, the Superintendent. The CO also shall report directly to the Board on a periodic basis and upon reasonable request by the Board.
- B. **Duties:** The CO shall have the duties from time to time assigned to the CO by the Superintendent, which duties shall include but not necessarily be limited to the following:

- 1. Organizing and managing administrative tasks involved in monitoring and updating the Program;
- 2. Periodically reviewing the Program and recommending revisions necessary to meet changes in the regulatory environment;
- 3. Supervising administration of the Program which shall include working with the audit committee;
- 4. Ensuring, as appropriate, the National Practitioner Data Bank, state licensure records, the HHS-OIG's List of Excluded Individuals/Entities (LEIE), and the General Services Administration's (GSA's) List of Parties Debarred from Federal Plans have been checked with respect to employees and agents;
- 5. Establishing and administering a communication system to be used by all Participants to report any suspected illegal conduct or other conduct that violates this Plan, the Standards of Conduct or the Policies and Procedures;
- 6. Receiving and investigating reports of possible illegal conduct or other conduct that violates this Plan, the Standards of Conduct or the Policies and Procedures;
- 7. Establishing open lines of communication to achieve compliance throughout the District;
- 8. Maintaining a master repository of existing Policies and Procedures, developing new Policies and Procedures, revising Policies and Procedures as necessary and ensuring awareness throughout the District;
- 9. Reviewing and updating the education, training, and Standards of Conduct to reflect the current federal, state and local laws:
- 10. Collaborating with internal and external auditors;
- 11. Preparing and presenting, as requested or needed, reports to the Board; and
- 12. Developing and implementing strategies for the continued implementation of the Program.

# V. <u>COMMUNICATION</u>

A. Open Lines: Open lines of communication between the CO and all Participants is critical to the successful implementation and operation of the Program. Participants have a duty to report good faith beliefs of violations of the Program, including violations of applicable laws and the Standards of Conduct. Questions and concerns regarding compliance shall be brought to the CO. Participants may initially consult supervisors,

who shall refer compliance issues to the CO. The CO shall maintain a log of alleged compliance issues, investigations, referrals, action and resolutions.

C. **Reporting**: Any Participant may contact the CO directly by calling **(607)** 936-3704 to report any potential compliance concern or incident, or to schedule an appointment. There will be appropriate follow up by the CO on any reported concern, violation or potential violation.

Participants may also mail their concern to:

Deborah Joseph
Director of PPS & Medicaid Compliance Officer
Corning-Painted Post Area School District
165 Charles Street
Painted Post, New York 14870
(607) 936-3704
djoseph@cppmail.com

- D. Evaluate and Investigate: The District shall promptly evaluate and investigate allegations a Participant brings forward and make every attempt to correct all violations that are confirmed to have occurred and to prevent further occurrences thereof. The CO shall refer all legal issues to the Superintendent. Records and any subsequent investigation of reported matters shall be confidentially retained by the CO to the extent possible. Records shall be subject to disclosure only as required by law on the advice of legal counsel.
- E. Reporting to Government Agency/Non-Retaliation: A Participant has the right to report his/her suspicion to an appropriate government agency. The District will not retaliate against a Participant who, in good faith, brings forth or reports claims of fraud, waste and/or abuse. Any threat of reprisal against a Participant who acts pursuant to his/her responsibilities under the Program is contrary to District policy and law. Any substantiated adverse action taken against a Participant making a report, including but not limited to attempts to harm or slander through harassment, false accusations or malicious rumors, and/or retaliation, will result in disciplinary action up to and including termination of employment of the party or parties responsible for such adverse action.
- F. Anonymous: At the request of a reporting Participant, the District shall provide anonymity to the extent possible consistent with the District's obligation to investigate concerns and take corrective action.
- G. Notice to CO: Participants shall notify the CO of any visits, audits, investigations or surveys by any federal or state agency or authority of which the Participant becomes aware.

## VI. TRAINING AND EDUCATION

- A. General: This Plan and the Policies and Procedures adopted in accordance with it are incorporated and made part of the Board's policies. It is the responsibility of all Participants dealing with Medicaid issues to be familiar with the Program. Administrators in the District, in conjunction with the CO, shall disseminate pertinent information to employees and agents annually. A review of the Program's elements is one of the mandatory annual in-service requirements for all affected employees and persons associated with the District.
- B. New Employees: All affected new employees shall receive an introduction to the Program at orientation. A copy of this Plan is available to employees upon request.
- C. Additional Training: As necessary, separate training sessions will be conducted to address specific department needs. Specialized training may focus on complex areas or in departments which the CO determines pose a high risk for non-compliance. The CO shall be responsible for ensuring that training is updated at regular intervals to include legal developments.

# VII. <u>AUDITING AND MONITORING</u>

- A. Purpose: Ongoing improvement and evaluation process are crucial to the Program.
- B. Compliance: The CO shall be responsible for monitoring Participants' compliance with the Program, including applicable laws, regulations, standards, policies and procedures. The CO shall determine risk areas which shall become a focus area for organizational compliance based on internal audits, reviews of laws, regulations and standards and interviews with Participants.
- C. Variations: If significant variations occur, an investigation will be conducted to determine the causes. If it is determined that the variation was caused by improper procedures or misunderstanding of the Program, the District shall take steps to correct the problems(s). Accountability will be assigned to the appropriate department head for corrective action and resolution. Corrective action and resolution shall be reported to the CO and Superintendent. Any overpayments discovered as a result of audit or investigations will be adjusted and/or disclosed for the purpose of returning them promptly to the affected payor, with appropriate documentation and explanation.
- D. Ongoing Program Evaluation: An ongoing evaluation process is critical in detecting noncompliance and improving the quality of work and will help ensure the success of the Program. Identified areas of focus shall be integrated into the District's annual compliance workplan. Areas of focus that are not incorporated into the annual compliance workplan shall be documented.
- E. **Departmental Reviews**: The CO will periodically conduct departmental interviews with department heads to assist in determining the effectiveness of the Program. Audits and

reviews shall inquire into the portions of the Program that have been the focus of attention on the part of the Medicaid fiscal intermediaries, Medicaid, appropriate state entities, third party payors, and law enforcement e.g., as evidenced by OIG Special Fraud Alerts, OIG and OMIG audits and evaluations, and law enforcement initiatives.

- F. Audit Techniques: Audit techniques may include, but are not limited to:
  - On-site visits:
  - Personnel interviews:
  - General questionnaires submitted to Participants;
  - Reviews of medical records that support claims for reimbursement; and
  - Review of written materials and documentation prepared by the District.
- G. **Notice of Changes**: As part of the monitoring process, the CO shall establish procedures for ensuring appropriate personnel are notified of changes in laws, regulations or policies, and additional training is provided to assure continued compliance.

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# VIII. RESPONDING TO DETECTED OFFENSES AND DEVELOPING CORRECTIVE ACTION INITIATIVES

- A. Violations and Investigations: Upon reports of suspected noncompliance, the CO in collaboration with the District's legal counsel will initiate an investigation to ascertain whether or not a violation of applicable law or the requirements of the Program has occurred. If a violation has occurred, the CO will identify and initiate a corrective action plan as soon as practicable. Any referral to criminal and/or civil law enforcement authorities shall be made in consultation with the District's legal counsel.
- B. Internal Investigation: An internal investigation may include interviews with relevant personnel and a review of pertinent documents. The District may engage outside experts, including attorneys and auditors, to assist in an investigation. Such engagement shall be under the authority and oversight of the District's legal counsel.
- C. **Document Retention**: The CO will take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation.
- D. Reporting: All employees are responsible for complying with applicable laws, regulations, this Plan, Standards of Conduct and the Policies and Procedures, and to report any acts of non-compliance in accordance with this Plan and the Program. Any Participant who perceives or learns of non-compliance should either report the non-compliance to his or her supervisor or the CO. Supervisors shall report these issues to the CO. The CO, in collaboration with the District's legal counsel, shall decide when to report the existence of misconduct to the appropriate governmental authority. Such reporting shall take place no more than sixty (60) days after determining that credible evidence of a violation exists.

# IX. DISCIPLINARY ACTION

Disciplinary action as to those who have failed to comply with the Program, including federal and state laws, or those who have otherwise engaged in conduct that could potentially impair the District's status as a reliable, honest and trustworthy provider, is an important part of the Program. Failure to comply with the Program may result in disciplinary action up to and including termination of employment or association with the District. Certificated employees also risk referral to the New York State Education Department's Office of School Personnel and Professional Accountability (OSPRA) under Part 83 of the Education Commissioner's Regulations.

Discipline under this section may also be imposed, in accordance with Medicaid laws and regulations, for non-compliant conduct and for failure to report non-compliant conduct.

## X. BACKGROUND CHECKS - APPLICANTS FOR EMPLOYMENT

It is the District's policy to make reasonable inquiry into the background of prospective employees, contractors and vendors that are engaged in a business or activity that by its nature may place the District at risk for violation of the Program. Such checks shall be consistent with legal requirements for background checks of school employees.

The District will not knowingly employ or contract with any individual who has been convicted of any criminal offense related to health care, or who is listed as debarred, excluded or otherwise ineligible for participation in federal health care Plans (as defined in 42 U.S.C. §1320a-7b(f).

Date: November 5, 2014 Date: November 5, 2014

s/ Michael K. Ginalski s/ Deborah Joseph

Superintendent Corporate Compliance Officer

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