MEDICAID COMPLIANCE

The Board of Education recognizes its obligation to put a plan and program in place to prevent or otherwise detect fraud, waste and abuse in the Medicaid program. In general, the Board expects that its officers and employees will operate with integrity and in conformance with its adopted code of ethics (policy 2160). The Board directs the Superintendent to ensure that the following program elements are in place and are implemented effectively:

1. **Written procedures:** Accompanying this policy, and the cross-referenced policies listed below, are more detailed procedures and descriptions of how each element of the compliance program will be implemented. Written procedures will address how the district will accomplish the following:

    a. Keep informed regarding Medicaid coverage: The Director of Special Services, will keep abreast of services that are covered by Medicaid so that the district files compliant claims. The Board expects that district staff and/or contractors and agents will avoid filing false claims which would subject the district to civil and criminal liability.
    b. Prohibit use of "excluded" providers: Ensure that the district doesn't hire or contract with service providers who have been excluded from Medicare or the Medicaid program. The Director of Special Services will check the credential of the provider before the district engages their services. District employees will be required to sign an agreement that said employee will inform the Compliance Officer and district human resource administrator upon receipt of any notification or knowledge that the individual's license has been suspended, revoked or lapsed, or if they have been excluded from participation in the Medicaid program. Upon notice by the employee, the district will take remedial steps as soon as possible. Contracts with outside providers will include provisions to address this requirement.
    c. Monthly review of providers: The Director of Special Services will check the list of excluded providers monthly to determine if any district employees who deliver Medicaid-covered services, or if any contractors, have been added to the list or have been reinstated. If any have been excluded, it will be reported immediately to the Superintendent who will initiate remedial action.

2. **Appoint a Compliance Officer, who is an employee, vested with responsibility for the day-to-day operation of the program:** The Board will appoint a Medicaid Compliance Officer at its annual organization meeting. The role of the Compliance Officer shall be to oversee the compliance program, receive and promptly investigate reports of noncompliance and report findings as appropriate to the Medicaid Inspector General, as well as to the Board of Education and Superintendent. The Compliance Officer will report to the Board fraud, significant findings or patterns of noncompliance.

3. **Training and education of officers and employees:** All employees involved in Medicaid covered services, as well as those responsible for oversight, will receive annual training in accordance with state and federal requirements. Board members will also

receive appropriate training so that they can fulfill their responsibilities. The district will keep appropriate records documenting the training program.

4. **Lines of communication:** The district will work towards ensuring that its culture encourages communication among all parties involved in the Medicaid compliance program. The New York State Education Department and Health Department outlined the requirements of a disclosure mechanism that enables employees to report anonymously any practice or billing procedure that the employee deems inappropriate to the district's Compliance Officer and/or the State's Compliance Officer. The district will inform employees of this mechanism in conformance with that policy.

5. **Disciplinary consequences for school employees**: Failure of district employees to comply with this policy, and the reporting requirements pursuant to policy 9645, may result in a range of disciplinary actions, up to and including termination, in conformance with applicable laws and collective bargaining agreements

6. **A system to routinely identify compliance risk areas**: Medicaid claims will be included as part of the district's risk assessment. The claims will be reviewed as part of the district's risk assessment at a minimum every two years or as directed by the Audit Committee or Board of Education. In addition, the Medicaid claims function will be tested and reviewed as part of the district's internal audit plan routinely, or as directed by the Audit Committee or Board of Education. When the internal audit reveals weaknesses, a corrective action plan will be initiated by the Superintendent.

7. **A system for responding to compliance issues:** The district's program will include mechanisms to ensure that compliance issues are responded to appropriately as they are raised. The compliance officer, as noted in number 2 above, is responsible for ensuring that the system for receiving reports and responding appropriately is implemented.

8. **Non-Retaliation**: The Compliance Officer and Board is charged with responsibility for enforcing district policy 9645, Disclosure of Wrongful Conduct, which protects individuals who, in good faith, report or investigate suspected cases of fraud, waste or abuse in the district's Medicaid program from retaliation or intimidation.

The Medicaid Compliance Program is part of a comprehensive effort to manage all of the district's resources and is in conformance with the Five Point Plan which was enacted by Chapter 263 of the Laws of 2005 and includes the following elements:

1. Claims Auditor – (policy 6650) – establishes that the Board will either act as claims auditor for the district or appoint one. The claims auditor is responsible for examining, allowing or rejecting all charges, claims or demands against the district.
2. Independent External Audit – (policy 6660) – establishes that the district will obtain an annual audit of its records by an independent public accountant.
3. Internal Audit Function – (policy 6680) – establishes an internal audit function to develop an annual risk assessment and provide reports to the Board at least annually, or upon request.

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4. Audit Committee – (policy 6690 – establishes the composition and charge of the audit committee. The committee shall recommend internal and external audit plans to the Board, as well as receive and review audit reports.
5. Board Member Training – (policy 2510) – Board members will be trained on their fiscal oversight, accountability and fiduciary responsibilities.

The ongoing review and implementation of these policies address Medicaid compliance, as well.

The Superintendent is responsible for developing regulations which will further detail the procedures associated with this policy. The Board will periodically review and update this policy and the associated plan.

Dissemination of Policy

The Board directs the Superintendent to ensure that this policy, as well as the cross-referenced policies, are disseminated to employees as well as those entities providing Medicaid covered services, with particular attention to those employees involved in administering the programs and services associated with Medicaid and their billing.

Cross-ref: 2160, School Board Officer and Employee Code of Ethics
2210, Board Organizational Meeting
2520, Board Member Training
6650, Claims Auditor
6660, Independent External Audit
6680, Internal Audit Function
6690, Audit Committee
9645, Disclosure of Wrongful Conduct
9700, Professional Development

Ref: False Claims Act, 31 U.S.C. §3729, et seq.
State Finance Law §§187 et seq. (New York False Claims Act)
Social Services Law §§145-b (False Statements); 145-c (Sanctions);
363-d (Provider Compliance Program)
Labor Law §740 (Prohibits Retaliation)
18 NYCRR §§521.1 et seq. (Provider Compliance Program regulations)

Adoption Date: **05/21/20**