



Corporate Compliance Policy Manual

Overview

Contents

Topic	Page
Corporate Compliance Plan	2
Written Policies and Procedures	6
Compliance Oversight – Compliance Officer and Committees	8
Training and Education	12
Communication	14
Standards and Guidelines	16
Internal Monitoring and Auditing	17
Responding to Compliance Issues	22
Code of Ethics and Standards of Conduct	29
Conflict of Interest	33
False Claims – False Claims Act	37
False Claims – Reporting and Monitoring	44
Whistleblower	46
Exclusion Screening	48
Self-Disclosure	52

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 1 of 57



Corporate Compliance Plan

Introduction

As a not-for-profit health and human services organization dedicated to improving the everyday lives and meeting the needs of individuals with disabilities and other challenges, The Resource Center (TRC) is committed to complying with all applicable rules and regulations of federal, state and local government, including but not limited to those promulgated by the Centers for Medicare and Medicaid Services (CMS), NYS Department of Health (DOH), NYS Office of Medicaid Inspector General (OMIG), Office of Mental Health (OMH) and the NYS Office for People With Developmental Disabilities (OPWDD).

The Resource Center's Compliance Program is hereby established to promote a work environment where high standards of ethical and legal behavior are recognized and practiced. The Corporate Compliance Plan is supported by the Board of Directors.

Definitions

Affected Individuals: All persons affected by The Resource Center's risk areas including employees, the Executive Director, executive management, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers.

Executive: Any member of the Executive Management Team (EMT), regardless of specific title

NOTE: Contractors, agents, subcontractors, and independent contractors will be known as "contractors" under these policies and the new regulations in Part 521-1 of NYCRR

Policy

TRC is committed to establishing and observing high standards of ethical conduct in its business and operational practices. This policy establishes a corporate compliance program, and policies and procedures, which conform to the standards, set forth in the Federal Sentencing Guidelines, Federal and State False Claims laws, the NYS OMIG and other guidance from the department of Health and Human Services' Office of Inspector General. These standards include seven elements:

- I. Establishing written policies, procedures and Standards of Conduct
- II. Designating a Compliance Officer and Compliance Committee
- III. Conducting effective training and education
- IV. Developing effective lines of communication
- V. Enforcing standards through disciplinary guidelines
- VI. Conducting internal monitoring and auditing
- VII. Responding promptly to detected offenses and developing corrective action

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 2 of 57



Corporate Compliance Plan, Continued

**Element I:
Written Policies
and Procedures** TRC will maintain and distribute written Standards of Conduct as well as specific compliance related policies and procedures that promote the agency's commitment to compliance as well as provide guidance and expectations for all affected individuals. All agency policies are posted on the TRC intranet for easy accessibility.

TRC has developed and will continue to develop policies and procedures to implement the Corporate Compliance Plan. These policies and procedures, at a minimum, will:

- Implement the operation of the compliance program
- Provide guidance to employees and other on dealing with potential compliance issues
- Identify how to communicate compliance issues to appropriate compliance personnel
- Describe how potential compliance problems are investigated and resolved
- Encourage reporting of any suspected violations without the fear of intimidation or retaliation

**Element II:
Compliance
Program
Structure** A Corporate Compliance Officer and the Compliance Ethics Risk and Safety (CERS) Committee will be charged with the responsibility of operating and monitoring the Corporate Compliance Program.

**Element III:
Education and
Training** TRC will provide training and education to all affected individuals on compliance issues, expectation and the compliance plan operation.

**Element IV:
Lines of
Communication** Communication lines shall be maintained with all affected individuals for compliance issues to be reported. Communications lines will include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified.

**Element V:
Disciplinary
Guidelines** TRC will maintain a policy to encourage good faith participation in the compliance program.

**Element VI:
Monitoring and
Auditing** The Resource Center's business practices will be evaluated on a continuous basis, to ensure that compliance risk areas are monitored, issues are identified and that effective corrective actions are taken.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 3 of 57



Corporate Compliance Plan, Continued

**Element VII:
 Responding to
 Compliance
 Issues**

The Compliance Officer will ensure systems are in place for the following:

- Responding to compliance issues as they are identified
- Investigating potential compliance issues
- Responding and correcting compliance issues identified in self-evaluations, audits and external reviews
- Implementing procedures, policies and systems as necessary to reduce the potential for reoccurrence
- Identifying and reporting compliance issues to authorities including OMIG, DOH, OMH, OPWDD and The Arc NY as appropriate
- Refunding overpayments

**Annual
 Corporate
 Compliance
 Work Plan**

The Compliance Officer is responsible for developing an annual Corporate Compliance Work Plan (CCWP), which is reviewed and approved by Compliance Ethics Risk and Safety (CERS) Committee, the Compliance Committee of TRC. The CCWP highlights the high-risk areas that have been gleaned from the OIG and OMIG work plans as well as TRC's Compliance Risk Assessment. It is developed around the seven elements and includes activities that strengthen the effectiveness of the Corporate Compliance Plan.

Although an annual work plan is developed and implemented, changes in regulations, rules and oversight agency focus are used to modify the work plan as needed throughout the year.

**Compliance
 Plan
 Effectiveness**

The Corporate Compliance Plan shall be reviewed annually by the CERS Committee to evaluate the effectiveness of the plan and to determine if changes and/or revisions are necessary.

Summary

The Compliance Plan was adopted by the Board of Directors in September, 1999 and is reviewed annually and revised as needed. The Compliance Plan shall be a TRC system wide program, structured to encourage collaborative participation at all levels of TRC. The Compliance Plan was developed, including the Standards of Conduct (formally the Code of Conduct) and a wide array of procedures that address key risk areas, to foster an environment in which all affected individuals comply with all relevant laws and regulations. TRC expects that all aspects of service and business conduct will be performed in compliance with professional standards, laws, rules, regulations, and TRC policies and procedures. TRC further expects all affected individuals to report any concerns about business practices as set forth in this policy.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 4 of 57

Corporate Compliance Plan, Continued

Summary, Continued

The Compliance Plan is included in the Agency Policy and Procedure Manual which is available on the agency intranet. The compliance plan is reviewed at orientation training and annually for all affected individuals.

The Compliance Plan is reviewed annually by the Compliance Officer and the Compliance, Ethics, Risk and Safety (CERS) Committee. The principles of the compliance plan are reviewed with the Executive Management Team and the Expanded Executive Management Team as appropriate. Potential risk areas identified through the compliance plan will be addressed with the affected individuals.

Understanding and following the principles and standards of the Compliance Plan will reduce the prospect of unethical, illegal or criminal conduct.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
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Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 5 of 57



Written Policies and Procedures

Purpose The purpose of written policies and procedures is to provide guidance for all affected individuals to better understand agency expectations, individual responsibilities, and accountability. It is to encourage all affected individuals to report, in good faith and without fear of retaliation or intimidation, any actual or suspected noncompliance with TRC policies and procedures, laws, and regulations which TRC is governed by.

Policy TRC will maintain and distribute Standards of Conduct as well as specific compliance related policies and procedures that promote the agency's commitment to compliance, as well as provide guidance and expectations for all employees. All agency policies are posted on the TRC intranet for easy accessibility.

Definitions **Affected Individuals:** All persons affected by The Resource Center's risk areas including employees, the Executive Director, executive management, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers.

Intimidation: means any act to manipulate an individual or intentionally cause feelings of fear or inadequacy.

Retaliation: Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a claim of alleged misconduct. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours). Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity."

Protected activity: Protected activity occurs when a person has:

- Filed a complaint of alleged misconduct, either internally or with any external agency;
- Testified or assisted in a proceeding involving alleged misconduct;
- Reported alleged misconduct by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of alleged misconduct;
- Encouraged a fellow employee to report alleged misconduct;
- Cooperated or participated in the investigations or potential issues;
- Assisted with or participated in self-evaluations, audits, and/or remedial actions;
- Reported to appropriate officials

Good Faith means the individual believes the potential violation actually occurred as they are reporting it.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 6 of 57



Written Policies and Procedures, Continued

Standards or Conduct

TRC's Standards of Conduct is intended to provide guidance to all affected individuals in the performance of their duties and to ensure that the highest level of ethical, moral and legal standards are maintained by all. Our Standards of Conduct, which also reflects our tradition of caring, emphasizes the shared common values and culture we seek to cultivate, will guide our actions each day.

TRC requires that all affected individuals sign a written acknowledgement that he or she understands and will follow The Resource Center's Standards of Conduct.

Policies and Procedures

TRC has developed, and will continue to develop, policies and procedures to implement the Corporate Compliance Plan. These policies and procedures, at a minimum, will:

- Implement the operation of the compliance program
- Articulate the commitment and obligation to comply with all applicable federal and state standards
- Provide guidance to affected individuals on dealing with potential compliance issues and refusing to participate in unethical or legal conduct
- Identify how to communicate compliance issues to appropriate compliance personnel
- Describe how potential compliance problems are investigated and resolved and the procedures for documenting the investigation and resolution/outcome.
- Articulate the agency's commitment to non-intimidation and non-retaliation.

NOTE: Policies, procedures, and the Standards of Conduct will be reviewed annually to ensure they are being implemented and followed for effectiveness and determine if any updates are needed.

Non-Intimidation and Non-Retaliation

All affected individuals are prohibited from engaging in any act, conduct, or behavior that results in, or is intended to result in, retaliation or intimidation. Even if the alleged misconduct cannot be substantiated, the person is protected from retaliation. However, the retaliation provision is not intended to protect people from making intentionally false allegations; they should be made in good faith.

If anyone believes they have been retaliated against, they should contact the Compliance Officer or report it to TRC's Compliance Hotline at 716-661-1011 as soon as possible. Allegations of intimidation or retaliation will be investigated.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
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Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 7 of 57



Compliance Oversight – Compliance Officer and Committees

Purpose The purpose of this policy is to define the functional components of the Corporate Compliance Plan, including the Corporate Compliance Officer and the agency’s Compliance Committee, The Compliance Ethics Risk and Safety (CERS) Committee, and their related responsibilities.

Policy The Resource Center (TRC) delegates responsibility and authority to the Corporate Compliance Officer and a Compliance Committee, CERS, for the oversight of implementation and operation of the Corporate Compliance Plan.

Designations

A. Corporate Compliance Officer (CO)
 The Corporate Compliance Officer shall be an employee who is delegated authority by the Executive Director for the day-to-day operations of the compliance program. The role may be combined with other duties.

The responsibilities and duties of the CO shall include, but not be limited to:

- Overseeing and monitoring the adoption, implementation and maintenance of the Compliance Program and evaluating its effectiveness
- Updating, at least annually, the Compliance Plan, policies, and procedures to ensure TRC’s strategy is compliant with federal and state laws, rule, regulations, policies and standards
- Reporting directly, no less than quarterly, to TRC’s Board of Directors, CEO/designee, and Compliance Committee on the current status of the compliance program
- Assisting TRC in establishing methods to improve efficiency, quality of services, and reducing TRC’s vulnerability to fraud, waste, and abuse;
- Receiving, evaluating, investigating reporting, and responding to all compliance-related questions, concerns, and complaints and pursuing/monitoring any resulting corrective action with all internal departments, contractors, and the Federal and State governments to reduce the potential for reoccurrence and ensure resolution
- Accessing all records, documents, information, facilities, and affected individuals (when necessary) needed to carry out compliance program responsibilities;
- Overseeing and reviewing results of internal and external audits

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 8 of 57



Compliance Oversight – Compliance Officer and Committees, Continued

Designations, Continued

- Fostering an appropriate environment within TRC to promote participation in the Compliance Program
- Establishing, maintaining and monitoring open lines of communication, including anonymous and confidential methods
- Creating and maintaining appropriate documentation of compliance activities
- Developing, managing and reporting on the annual compliance work plan, including routine identification of compliance risk areas and trends
- Ensuring that monthly checks of the federal and state exclusion lists are conducted by the designated individuals
- Ensuring plans of correction are actively being applied or resolved; and, if not, implementing a new plan.
- Overseeing self-disclosures and refunding of overpayments

The Corporate Compliance Officer shall report to the Executive Director or other designated senior staff of The Resource Center, and shall have a reporting relationship to the Board of Directors, as necessary. The Corporate Compliance Officer shall have appropriate autonomy and shall function without risk of reprisal for raising difficult issues. TRC will ensure the Compliance Team has sufficient staff, resources, and access to all materials, facilities, documents, records, and affected individuals needed to satisfactorily operate the compliance program.

B. Compliance Ethics Risk and Safety (CERS) Committee

The CERS Committee shall serve as the agency’s Corporate Compliance Committee and a resource for the Corporate Compliance Officer. The committee will be comprised of senior managers that include the Executive Director, COO, CFO, Human Resources, and Quality Assurance. Other members may be asked to participate on an ad hoc basis. CERS will report directly and be accountable to TRC’s Executive Director and Board of Directors.

The activities, duties, and responsibilities of CERS are as follows:

- Maintenance and improvement of the written standards and policies:
 - Annual review of the Compliance Program policies and procedures; offer recommendations for improving and strengthening the policies, procedures, and commitment to compliance.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 9 of 57



Compliance Oversight – Compliance Officer and Committees, Continued

Designations, Continued

- Analysis of the regulatory environment and legal requirements with which TRC must comply, and specific risk areas for the Chapter.
- Compliance Training Program
 - Ensure CO coordinates with Staff Learning & Development to provide appropriate and relevant compliance training and education content, at new hire orientation and annually thereafter.
- Liaison to the Board of Directors and TRC Management
 - Regular communication with the Board of Directors;
 - Receive reports from the CO concerning/related to the operation of the Compliance Program such as issues related to training and education, hotline reports/disclosures of wrongdoing, potential/existing government education or litigation, internal and external audits, compliance risk assessment and the results of the annual review of the compliance program,
 - Provide support and feedback to the CO and others,
 - Provide strategic direction for the Compliance Program,
 - Issue reports to the Audit Committee, Board of Directors, and Executive Director as needed.
- Auditing
 - Recommend and monitor, with the relevant departments, the development and execution of internal systems and controls to carry out TRC’s standards, policies, and procedures as part of daily operations,
 - Evaluate internal and external audits and investigations for the purpose of identifying and making recommendations regarding deficiencies and systemic issues, and implementing corrective and preventative action.
- Investigations and Receipt of Complaints and Concerns
 - Ensure the CO has appropriate independence and support for the Compliance Program for investigations and matters related to compliance issues
 - Receive reports related to investigations and complaints under the Compliance Program.
 - Advocate for appropriate allocation of funding, resources, and staff for support and effective implementation of TRC’s Compliance Program.
- Discipline/Enforcement of the Corporate Compliance Program
 - Support the CO and other management to take appropriate steps for violations of law, regulations, and TRC policies and procedures, including an up to termination of employment or contract.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 10 of 57



Compliance Oversight – Compliance Officer and Committees, Continued

Designations,
Continued

- Advise on whether additional education and training may be needed based on areas of risk that arise.
- Disclosure and Internal/External Corrective Action
 - Provide input into corrective action plans developed by TRC, including self-disclosure to a governmental agency.
 - Assist the CO to identify and implement changes to day-to-day policies and procedures to mitigate risks and prevent future similar violations and issues.

The CERS Committee is the official Compliance Committee and a resource to the Compliance Officer. The committee will be comprised of TRC leadership and key departments including the CEO, Chief Financial Officer, Human Resources, Quality Assurance and other members as may be required on an ad hoc basis.

C. QA/QI Board Advisory Committee and Audit and Corporate Compliance Committee

Reports shall be made directly to the Board of Directors, the Audit and Corporate Compliance Committee, and the QA/QI Board Advisory Committee on a regular basis. These committees will have the responsibility of assisting the Compliance Officer in the implementation of the Corporate Compliance Plan. The committees shall provide support and feedback for the development of priorities for the Compliance Program by offering assessments in their area of expertise and assistance in identifying risk areas. The Committees will also monitor the resolution and/or mitigation of significant actual and potential risks.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 11 of 57



Training and Education

Purpose The purpose of this policy is to ensure all affected individuals are educated and trained on the Corporate Compliance Plan and related policies.

Policy All affected individuals will receive training and education within 30 days of establishing a relationship with TRC and annually thereafter on the following:

- Compliance Plan
- Standards of Conduct
- Health Insurance Portability and Accountability Act (HIPAA)
- Whistleblower

Development of Training Programs and Material The Corporate Compliance Officer, with the support of the Compliance Ethics Risk and Safety (CERS) Committee, shall be responsible for working with Staff Learning and Development to develop and monitor the training curriculum, material and content for orientation and annually thereafter. A record of all such trainings shall be maintained.

TRC will use periodic newsletters and e-mails to update individuals on compliance-related issues, as appropriate.

Training Topics TRC's compliance training and education will include the following topics:

- Risk areas and organizational experience
- Written policies and procedures applicable to TRC's compliance plan
- The role of the Compliance Officer and Compliance Committee
- How affected individuals can ask questions and report potential compliance-related issues to the CO and senior management, including the obligation of affected individuals to report suspected fraud or improper conduct and the procedures for submitting such reports and the protection from intimidation and retaliation for good faith participation in the compliance program
- Disciplinary standards related to the compliance program and prevention of fraud, waste, and abuse;
- How TRC responds to compliance issues and implements corrective action plans;
- Requirements specific to Medicaid and TRC;
- Coding and billing requirements and best practices;
- Claim development and the submission process, if applicable;
- Reporting Compliance problems.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 12 of 57



Training and Education, Continued

Effectiveness TRC will utilize post-training quizzes following each training session to evaluate comprehension. Individuals must score an 80% or above on the quiz to receive credit for the training. The Staff Learning and Development team will work with the CO to review and edit the training annually to ensure effectiveness.

Reports TRC contracts with an electronic training system, which tracks completion of all affected employees' required compliance training. A monthly report of training compliance shall be forwarded to the Compliance Officer. This information will be reviewed with the Board of Directors and CERS Committee as necessary, but at least annually.

Enforcement Individuals shall be informed during the training session that strict compliance with the Corporate Compliance Plan and the Standards of Conduct is a condition of employment and failure to comply will result in disciplinary action up to and including termination.

Failure to complete compliance trainings shall result in disciplinary procedures, up to and including termination.

Specialized Trainings Specialized training may be conducted for specific departments that are based on compliance issues and/or identified risk.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 13 of 57



Communication

Purpose To provide information to all affected individuals on how reports of potential non-compliance or issues shall be communicated.

Policy The Resource Center (TRC) requires all affected individuals to report any violations or suspected violations of legal or compliance risks. TRC will keep communication lines to the Compliance Officer accessible to all affected individuals to allow questions regarding compliance to be asked and compliance issues to be reported as they are identified. TRC will provide a variety of methods for reporting, including a method for anonymous and confidential good faith reporting.

Identifying Compliance Issues When identifying a compliance issue, you should ask yourself the following questions:

- Is it legal?
- Is it the right thing to do?
- How would it make me feel if I did it?
- How would it look to my family and friends, the people we support, TRC Management, TRC Board of Directors and the general public?

NOTE: If it concerns you...it concerns us!

Examples of Compliance Issues Examples of compliance issues that should be reported include, but are not limited to:

- Billing for a service that was not provided
- Documentation that is knowingly false or inaccurate
- Billing for service without proper and complete documentation
- Service that is being provided by unqualified staff
- Breach of confidentiality
- Employee's using individual's or agency's funds or property for personal use
- HIPAA related issues

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 14 of 57

Communication, Continued

Reporting Methods

The following methods are available for reporting compliance issues:

- Discuss the question or issue using the department chain of command. The individual receiving the report is then required to ensure the compliance issue is reported to the Compliance Officer.
- Call the Compliance Hotline at (716) 661-1011, where details can be discussed anonymously and confidentially. The hotline is available 24 hours a day, and only the Compliance Officer has access to retrieve these calls.
- Send e-mail to TRC.Compliance@resourcecenter.org

NOTE: These lines of communication are available for reporting issues, as well as seeking clarification of compliance issues. These lines are not intended for complaints relating to the terms and conditions of an employee's employment. Any such complaints should be directed to your supervisor or Human Resources. The HR Hotline can be reached by calling 716-661-4711.

Confidentiality

All reported violations will be treated confidentially unless the matter is turned over to law enforcement, Medicaid Fraud Control Unit (MFCU) or Office of the Medicaid Inspector General (OMIG), is subject to a disciplinary proceeding, or disclosure is required during a legal proceeding.

Non-Retaliation

TRC will not allow intimidation or retaliation against individuals for reporting issues of potential policy and/or legal violations in good faith. See policy 4.2.2 Written Policies and Procedures

Open Lines of Communication

TRC will provide resources to employees to create awareness on reporting compliance issues and/or asking compliance questions. Examples of such resources include:

- Compliance Hotline Posters
- TRC Website
- Corporate Compliance Plan and related policies
- Annual Compliance and Whistleblower Training
- E-mail Tips

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 15 of 57



Standards and Guidelines

Purpose To create an agency-wide culture where compliant behavior is encouraged and non-compliant behavior is reported and responded to in a timely manner.

Policy All affected individuals shall be informed that failure to comply with the Compliance Plan, Standards of Conduct, related policies and procedures, and applicable laws and regulations will be subject to disciplinary action, up to and including termination or discontinuation of business relationships. This shall be shared through training and at the start of business relationships.

Disciplinary Action Compliance-related discipline will be fairly and firmly enforced in a consistent manner to all levels of personnel.

Examples of when disciplinary actions may be taken include (but are not limited to):

- Participating in actions that violate law, regulations and the Corporate Compliance Plan, including the Standards of Conduct and all related policies and procedures
- Failure to report a violation
- Encouraging, directing, facilitating or permitting non-compliant behavior
- Failure to cooperate in an investigation
- Retaliation against an individual for reporting a suspected violation

Documentation Documentation of disciplinary measures for violations will be retained in each employee's personnel file. Business relationships that have been sanctioned or terminated will be documented.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 16 of 57

Internal Auditing and Monitoring

Purpose To establish a system of ongoing auditing and monitoring for compliance.

Policy TRC will maintain a system for routine identification of compliance risk areas and self-evaluation of these risk areas. This system will include the following:

- Annual agency risk assessment
- Program monitoring through the self-audit tool program
- A compliance work plan
- Internal Audits of identified risk areas

Definitions **Monitoring:** On-going processes, directed by management, used to verify that controls are in place and working on a routine basis to identify and address program risks.

Auditing: A formal, systemic, and disciplined approach designed to evaluate and improve the effectiveness of processes and related controls. Audits are completed by individuals independent of the process being audited.

Compliance and other internal audits are monitoring tools utilized by each program to provide information verifying internal reviews are implemented and concerns are corrected in a timely manner to QA/QI and Compliance. Auditing is typically completed by an external auditor, or a sample is done by TRC Compliance and internal auditing.

Risk Assessment TRC identifies risk areas through the completion of a risk assessment. The risk assessment is completed on an annual basis, at minimum, and additional identified risks can be added throughout the year as needed. Results of the risk assessment are used in directing the activities of internal audits and annual revision of TRC's Corporate Compliance Work Plan (CCWP). It is overseen by the CERS Committee, with day-to-day work monitored by the Compliance Officer.

Corporate Compliance Work Plan (CCWP) The Compliance Officer is responsible for developing an annual Corporate Compliance Work Plan (CCWP), which is reviewed and approved by the Compliance Ethics Risk and Safety (CERS) Committee. The CCWP highlights the high-risk areas that have been gleaned from the Office of the Inspector General (OIG) and the Office of the Medicaid Inspector General (OMIG) work plans as well as TRC's Compliance Risk Assessment. It is developed around the seven elements (see policy 4.2.1) and risk assessment, and it includes activities that strengthen the effectiveness of the Corporate Compliance Plan.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 17 of 57



Internal Auditing and Monitoring, Continued

Corporate Compliance Work Plan (CCWP),
Continued

Although an annual work plan is developed and implemented internal, external and government audit findings, changes in regulations, rules and oversight agency focus are used to modify the work plan as needed throughout the year.

Program Monitoring

Routine self-audits are TRC's primary mechanism used to detect non-compliance with rules and regulations of federal, state and local government.

All programs that submit claims for services rendered will monitor program compliance using a self-audit tool. Self-audit tools are based upon OMIG standards and designed in conjunction with the Corporate Compliance Officer to evaluate the compliance with the Medical Assistance Program requirement, including but not limited to: billing, payments, ordered services, medical necessity, quality of care, governance, mandatory reporting, credentialing, contractor oversight; and other risk areas that are or should be reasonably identified by the provider through its organizational experience. Results identified will be shared with the Compliance Officer, as well as directly to the program management responsible for correcting the deficiencies. Corrective action will be put into place immediately to prevent reoccurrence and will be tracked by the Corporate Compliance Officer and/or Designee.

Frequency and self-auditing tools are reviewed periodically by the program, and updated for accuracy to current standards and requirements. Sample size of the audit is determined by the program or service population size. This is reviewed on an annual basis. Sampling should be mixed across claims number and rate code and selected at random. The system includes internal monitoring and audits and, as appropriate, external audits to evaluate compliance with the requirements of the MA program and overall effectiveness of TRC's compliance program. All internal or external audits, or audits conducted by the state or federal government of TRC, shall be reviewed for risk areas. Updates should be made to the compliance program and work plan at that time. The design, implementation and results shall be shared with the Compliance Committee and governing body.

Any MA overpayments shall be reported, returned and explained in accordance with provisions of 521-3 of this part; corrective action to prevent reoccurrence will take place.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 18 of 57



Internal Auditing and Monitoring, Continued

Program Monitoring,
Continued

TRC shall review, at least annually, all components of the Compliance Program (including, but not limited to, all audits and the risk assessment) to determine the effectiveness of the compliance program.

Exclusion Screenings

Exclusion screenings are completed monthly to confirm the identity and determine the exclusion status of affected individuals. All findings should be shared with the Compliance Officer. See Policy 4.1.7, Exclusion Screening.

Support Department Monitoring

Regular audits will be completed by the support departments, as appropriate, using the self-monitoring tool developed by the department.

Self-Audit Procedure

Step	Action
1	Forward self-audit results to Corporate Compliance Officer i.e. findings, recommendations, and corrections
2	Develop Plan of Correction or action plan to resolve concerns
3	Forward final Plan of Correction to Corporate Compliance Officer for review and approval
4	Maintain final copies within the department and Compliance for future reference
5	Implement the Plan of Correction
6	Ensure compliance with action plan. Note: Oversight to be provided by Assistant Executive Director (AED) and Director of program and/or department designee. Verification of compliance to be submitted to Corporate Compliance Officer.
7	Review findings and recommendations with respective Board Advisory Committees and Board

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 19 of 57

Internal Auditing and Monitoring, Continued

Internal Audit Other internal audits may be completed when a need is identified, to include the audits identified in the annual Corporate Compliance Work Plan. An auditor will be assigned based on area of focus.
 Note: Audits may be completed more frequently if there are identified significant concerns.

Fiscal Services The Chief Financial Officer will ensure the completion of all necessary and appropriate internal controls and systems reviews to address the integrity, accuracy and appropriateness of financial processes, develop recommendations for action, and ensure implementation of corrective actions. Results of these activities will be shared with the Corporate Compliance Officer.

External Audits External Audits will be utilized if deemed appropriate.

Reporting of Findings All self-audit activity and findings from all program areas will be reported periodically to the Corporate Compliance Officer. The Corporate Compliance Officer will review findings and corrections and identify opportunities for improvement and/or areas of compliance risk. All MA program overpayments identified shall be reported, returned and explained and TRC will promptly take corrective action to prevent reoccurrence.

Frequency	Report
Monthly	A summary of self-audit monitoring activity and compliance rates will be compiled and shared as appropriate.
Bi Monthly	A summary report of audit activity, compliance and trends, by program, will be presented to the Compliance, Ethics, Risk and Safety (CERS) Committee.
Quarterly	A summary report of audit activity, compliance and trends, by program, will be forwarded to the Board of Directors, as well as presented to the Diagnostic and Treatment (D & T) Quality Assurance Committee and the Board Advisory Committee.
Annually	A summary of the quarterly reports, recommended actions, implemented plans of correction and results will be presented to the CERS Committee, The Board of Directors and other pertinent Committees.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 20 of 57



Internal Auditing and Monitoring, Continued

**Compliance
 Program
 Review**

The review will be carried out by the Compliance Officer Compliance Committee, external auditors, or other staff with the necessary knowledge and expertise to evaluate the components for effectiveness. They must be independent from the functions being reviewed. Reviews include on-site visits, interviews with affected individuals, record review, surveys, or other comparable methods as long as the integrity and independence of the review is maintained. TRC will document the design, implementation, results, and any corrective actions taken to complete its effectiveness review and share it with the CEO, management, and the Board of Directors.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 21 of 57



Responding to Compliance Issues

Purpose To establish guidelines on how potential policy violations and alleged misconduct are investigated and resolved.

- Forms**
- 5W's of Complaint Intake
 - Considerations for Determining When to Investigate
 - Internal Investigation Report Form
 - Reported Misconduct Investigation Number Control Log-Example

- Policy**
- Allegations that put the agency at risk include, but are not limited to:
- Suspected or known violations of the law or company policy
 - Breaches of security or confidentiality
 - Alleged misconduct

All allegations should be reported, reviewed in a timely manner, and investigated to determine relevant facts and circumstances of the alleged violation or misconduct.

- Reporting**
- Every employee has a duty to report known, suspected, or potential policy or legal violations internally through any one of various channels, including:
- Any member of Executive Management Team (EMT)
 - The Human Resources Department
 - Human Resources Help Desk at (716) 661-4711
 - Information Services Department
 - Information Services Help Desk at (716) 661-1466
 - Compliance Officer
 - Compliance Hotline (Can be done Anonymously) at (716) 661-1011

Every reasonable effort will be made to maintain the confidentiality of the source of the report. Additionally, reports can be made on an anonymous basis via the Compliance Hotline.

Employee Employees are expected and required to cooperate fully with investigators, providing truthful information. Any person who fails to cooperate with an investigation or intentionally misleads an investigation will be subject to disciplinary action up to and including termination.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 22 of 57

Responding to Compliance Issues, Continued

Non-Retaliation TRC will not allow intimidation or retaliation against individuals for reporting issues of potential policy and/or legal violations in good faith. See policy 4.2.2 Written Policies and Procedures.

Receipt of a Complaint

1. Complaint Intake-
 - a) Complaint Intake will be done using the *5W's of a Complaint Intake Form* to assist in determining whether or not an investigation is warranted. This can be done contemporaneously with the initial report or as a separate step before a decision to undertake an investigation is made. The person receiving the complaint should complete the intake.
 - b) When a complaint of harassment and/or bullying is received, form *1.2b Complaint Form for Reporting Harassment/Workplace Bullying* should be completed by the employee. See policy *1.2.2 Workplace Bullying for reference*.
 - c) *When a complaint of sexual harassment is received, form 1.2a Complaint Form for Reporting Sexual Harassment should be completed by the employee. See policy 1.2.1 Sexual Harassment for reference.*
 - d) To facilitate a general report of a concern, issue or opportunity, an employee may complete the *Concern Opportunity Form* associated with Agency Policy 9.4.

2. Consideration for determining when to investigate-
 - a) Not every allegation of misconduct must be investigated. The *Considerations for Determining When to Investigate Form* may be used to decide when and when not to investigate.
 - b) An investigation is not needed if:

The report is a misunderstanding of organization policy
The allegation relates to a lack of communication between the reporter and another person
No other facts are necessary to resolve the issue, or the material facts are undisturbed
The substances of the report can be resolved informally, such as a request for assistance rather than an allegation of misconduct.

NOTE: TRC must document the reason why an investigation was NOT conducted.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 23 of 57

Responding to Compliance Issues, Continued

Receipt of a Complaint, Continued

NOTE: If it is determined that an investigation is necessary outside of the TRC Incident Management process, the investigation must be logged and assigned a unique Report Investigation Number.

Note: Active Investigations are shared on a need-to-know basis to protect all parties involved. Confidentiality is of utmost importance.

3. Designation of an investigator/subject matter expert-the investigator will be dependent upon the complaint received and must be an independent reviewer/investigator investigating the event.
4. An evaluation of risk associated with the investigation must be considered by the investigator along with the program. This evaluation will address if an employee suspension or other action is recommended.

If ...	Then ...
The matter relates to claim of: <ul style="list-style-type: none"> • Harassment • Discriminations • Retaliation • Workplace violence • Workplace conduct/workplace conflict • Falsification of Employment records • Unfair Labor Practices • Gross Misconduct • Other matters implicating TRC's personnel policies and procedures 	The investigation will generally be referred to Human Resources
The matter relates to claims of: <ul style="list-style-type: none"> • Confidential information • Fraud • Bribery • Conflicts of interest • Improper giving or receiving of gifts • Improper use of funds • Falsification of service billing documentation • Other matters implicating TRC's Standards of Conduct 	The investigation will generally be referred to the Compliance Officer or his/her designee

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 24 of 57

Responding to Compliance Issues, Continued

Receipt of a Complaint, Continued

If ...	Then ...
The matter relates to claims of: <ul style="list-style-type: none"> • Information Security breaches • Other matters implicating TRC’s Information Systems Security Policies and Procedures (10.4) 	The investigation will generally be referred to Information Systems
The matter relates to claims of: <ul style="list-style-type: none"> • Theft of Agency funds, resources and assets • Misuse of company credit cards • Other matters implicating TRC’s finance and purchasing policies and procedures 	The investigating will generally be referred to Finance
The matter relates to claims of: <ul style="list-style-type: none"> • Abuse/Neglect • Mistreatment • Theft and exploitation of individuals • Other matters implicating TRCs protective oversight policies 	The investigation will generally be referred to QA/QI Investigatory Unit

Note: Program staff, audit staff or outside sources may be involved as deemed necessary. This is not an all-inclusive list.

Investigation Process

Investigator Responsibilities

The following process may be utilized when conducting an investigation:

Step	Action
1	Consult with the Executive Director and/or Chief Operating Officer if allegation is serious in scope, has potential harm to the agency, or is a legal question prior to an investigation
2	Initiate an investigation. NOTE: Those individuals responsible for conducting investigation should be trained on the investigation process
3	Assign the Investigation Report a number using the Reported Incident Investigation Number Control Log-Example Form
4	Verify notifications are completed as appropriate i.e. Department of Labor (DOL), union, insurance carriers, etc.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023
	Page 25 of 57

Responding to Compliance Issues, Continued

Investigation
 Process,
 Continued

Step	Action
5	Define scope of the investigation to include the investigatory question (s) NOTE: If a secondary issue is identified, there may be a need to conduct a separate investigation or a determination to link the actions
6	Develop first draft of incident chronology sequence and facts <ul style="list-style-type: none"> • identify witnesses or individuals involved • identify source of potential evidence
7	Collect and review evidence <ul style="list-style-type: none"> • visit location of the incident if possible to determine location of people, contents of room, etc. • collect, preserve and secure records and other pertinent evidence
8	Prepare interview questions
9	Identify what is already known
10	Evaluate and determine if there is a potential for risk and take any and all measures to protect employees, individuals supported, visitors and property.
11	Determine who needs to be interviewed: <ul style="list-style-type: none"> • reporter of incident • complainant • witnesses of events immediately preceding, during, or following the incident
12	Conduct interviews providing standard information on expectations to interviewees, separate facts from inferences or employees' conclusions and opinions
13	Review material gathered during the investigation <ul style="list-style-type: none"> • Identify each piece of evidence <ul style="list-style-type: none"> – Are written statements similar? If not, are the differences substantial? – Does there appear to be collaboration? – If there are substantial differences, attempt to resolve. – Are there conflicts of interests between witnesses and accused that may account for conflicting statements? – Are statements consistent during follow up questioning?

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023 Page 26 of 57

Responding to Compliance Issues, Continued

Investigation
 Process,
 Continued

Step	Action
14	Review policies and procedures for consistency of actions and compliance with the agency policy and procedures.
15	Conduct follow up interviews: <ul style="list-style-type: none"> • determine what questions need to be answered to reach reasonable conclusions • identify information gaps
16	Review findings: <ul style="list-style-type: none"> • review and organize witness statements, facts, and background information • integrate, organize and analyse evidence
17	Prepare investigations report using the Internal Investigation Report Form <ul style="list-style-type: none"> • review findings • document conclusions <ul style="list-style-type: none"> – based on evidence which has been collected • support conclusions with the evidence <p>Note: An investigation may result in the finding that it is not possible to draw a credible conclusion about what may have occurred. <i>Based upon the evidence If, it cannot be proved....</i></p> <ul style="list-style-type: none"> • Identify discrepancies • Identify un-reconcilable inconsistencies • Summarize findings to support conclusions • Summarize reasons to support conclusions • Convey the results of the investigation to understand what happened (description and chronology)
18	Provide the report to appropriate parties
19	Appropriate parties meet as appropriate with the department designee committee to discuss the investigation and recommendations. Verify recommendations are received and complete
20	Organize and place completed investigation file, to include Final investigative report, documentary evidence, statement, responses to recommendations, etc., into a folder labelled with the investigation number
21	Send the Investigation to the Compliance Officer to be logged and filed

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 27 of 57

Responding to Compliance Issues, Continued

Investigation Process, Continued

Note: If during the course of the investigation an event appears to have occurred concerning a person we support, agency Incident Management Policies must be followed. (Reference: Agency Policy and Procedures Manual Chapter 6: Protective Oversight and Incident Management). Call the QA/QI Hotline if you need assistance.

Compliance Officer Responsibilities:

Step	Action
1	Receive completed Investigation from the Investigator. OR view completed investigation stored on the TRC Drive→ Investigation-Confidential Folder
2	Enter and track information on the Reported Incident Investigation Number Control Log
3	Bring the log to CERS as needed, to review investigation trends
4	Monitor any overpayments and self-disclosures for completion in a timely manner
5	Verifies responses to recommendations

Program Director/Designee Responsibilities:

Step	Action
1	Assists in making investigation interviewees available
2	Initiates preventative/corrective actions as appropriate
3	Review investigation findings with appropriate parties
4	Provides additional information as needed to ensure closure of investigation
5	Documents response to recommendations
6	Forwards response to investigator

Voluntary Disclosures of Violations

The Compliance Officer, in consultation with the Executive Director and the Compliance, Ethics, Risk, and Safety (CERS) Committee, will evaluate the violation to determine if a voluntary disclosure of the violation is appropriate. They will determine notification of appropriate government officials, private payors or other entities in the event of a violation where voluntary disclosure of the violation may be appropriate. Notification shall be made within 60 days after discovering the violation and may include the restitution of monies paid by the applicable state of federal agency, payor or other entity. See Policy 4.2.9 Self-Disclosure

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023 Page 28 of 57



Code of Ethics and Standards of Conduct

Introduction The Standards of Conduct is intended to provide guidance to all TRC staff in the performance of their duties, and to ensure that the highest level of ethical, moral and legal conduct is maintained by all affected individuals.

In all dealings, affected individuals will act in a manner consistent with the mission, philosophy, values and guiding principles of the Agency and in accordance with all applicable laws and regulations. The Resource Center is committed to demonstrating reliability, honesty, ethics, and the highest degree of business integrity through all programs and services we offer and in the community.

Definitions Affected Individuals: Everyone affected by The Resource Center’s risk areas, including employees, the Executive Director and the Executive Management Team, managers, contractors, agents, subcontractors, independent contractors, and the Board of Directors. (NYCRR Title 18, Section 521-1.2)

Handout The Standards of Conduct handout should be utilized to provide information to all affected individuals on the Standards of Conduct. All affected individuals are to be familiar with the Standards and incorporate it into daily practices. Failure to comply with the Standards of Conduct may result in disciplinary action that may include sanctions ranging from a simple warning to termination, referral for criminal prosecution, separation from a business agreement, and reimbursement to TRC for any losses or damages resulting from the violation.

Additional Guiding Principles The Resource Center also supports a NADSP Code of Ethics that is used as a guide to ensure quality services for all service recipients. These guiding principles are included in the Agency policy manual, section 2.0, and include the belief in and support of Person Centered Supports; Promoting Physical and Emotional Well Being; Integrity and Responsibility; Confidentiality; Justice, Fairness and Equity; Respect; Relationships; Self Determination, Advocacy and Natural Supports.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 29 of 57



Code of Ethics and Standards of Conduct, Continued

Fundamental Commitment to Stakeholders

To the individuals we support, we are committed to providing the highest quality of services in a caring, compassionate, and professional manner.

To our employees, we are committed to ensuring a safe work setting that treats all employees with fairness, dignity and respect. We will ensure equal employment opportunity for all, maintenance of a drug free workplace, and compliance with environmental laws.

Standards of Conduct

To our third-party payers: We are committed to working with our payers in a way that demonstrates our commitment to our contractual obligations and reflects our shared concerns for quality services in an efficient and effective manner.

To our regulators: We are committed to creating an environment in which compliance with applicable rules, laws and regulations is woven into the fabric of the entire Agency.

To all other affected individuals: We are committed to working with you in an ethical, respectful manner to offer the best services to be able to strengthen our community and those we support.

We believe that rules of conduct must be observed to promote a positive and ethical work environment. We pledge to abide by the laws, regulations and Agency policies and procedures including, but not limited to, those related to TRC's Corporate Compliance Plan.

We, as individuals working for and on behalf of The Resource Center, have the responsibility of following specific rules and standards, as described below:

Customer Focus:

To place the interests of the people we serve and their family members first and foremost in all aspects of what we do.

To treat all people with dignity and respect, and strictly adhere to all Agency policies regarding protecting individuals from abuse and mistreatment and reporting any and all instances of such behavior.

To maintain the highest standard of confidentiality regarding individuals served, and to protect information about individuals from unauthorized access.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 30 of 57



Code of Ethics and Standards of Conduct, Continued

**Standards of
 Conduct,**
 Continued

Employee Focus:

To work cooperatively and respectfully with all TRC employees, Board members and agents to provide the highest quality of services.

To represent The Resource Center positively in the community and maintain confidentiality of Agency information.

To avoid outside employment that competes with, or could be seen to compete with, the operations of The Resource Center.

To adhere to TRC's alcohol and drug free workplace policy. TRC employees are strictly prohibited from the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace.

To adhere to TRC polices which prohibit any kind of workplace violence or harassment

To adhere to TRC policy which prohibits firearms, other weapons, explosive devices or dangerous materials on TRC premises. To adhere to policies of OSHA to ensure an environmentally safe workplace.

Corporate Compliance Focus:

To conduct all business and activities with the highest possible standards and in a fiscally responsible manner. To not conduct business with entities excluded from participation by government agencies.

To avoid conflicts of interest, including the offering or acceptance of gifts in exchange for preferential treatment.

To maintain accurate, complete records and make accurate disclosures. All personnel involved in the preparation or submission of proposals and bids, or in the negotiation of any contract, order or modification, must be certain that all statements, communications, and representations are accurate and truthful.

To adhere to all applicable laws, regulations and TRC policies at all times.

To ensure that all activities are compliant with laws regulating anti-kickback, anti-trust, and political lobbying.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 31 of 57



Code of Ethics and Standards of Conduct, Continued

Standards of Conduct, continued

To fully cooperate with company and Government auditors and investigators and to be truthful in their communications. Adverse actions taken against an employee offering such information will not be tolerated.

To report any knowledge of or suspicion of inappropriate, unethical, Dishonest or illegal behavior to the appropriate person, your supervisor or the Executive Director, or TRC's Corporate Compliance Officer at the Compliance Hotline (716) 661-1011 or via email at trc.compliance@resourcecenter.org.

Do the Right Thing

When identifying a compliance issue, ask yourself the following questions:

Is it legal?

Is it the right thing to do?

How would it make me feel if I did it?

Would I be proud to tell others what I did?

How would it look to my family and friends, the people we support, TRC management, TRC Board of Directors and the general public?

If you have questions or concerns, contact the Corporate Compliance Officer at the Compliance Hotline (716) 661-1011.

The Agency has also established a unique e-mail for the TRC Compliance Department. You may access this address in Outlook under TRC Compliance or at trc.compliance@resourcecenter.org

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 32 of 57



Conflict of Interest

Purpose The purpose of this policy is to protect The Resource Center’s interest when it is contemplating entering into a transaction or arrangement that might also benefit the private interest, financial or otherwise, of a Director, Officer or Key person of the organization. TRC will not enter into any such transaction or arrangement unless it is determined by the Audit Committee in a manner described below to be fair, reasonable, and in the best interests of TRC.

Form Conflict of Interest Disclosure Form
 Independent Director Assessment Form

Definitions **Affiliate:** Any entity controlled by, or in control of, TRC

Conflict of Interest: Any situation in which a Director, Officer, or Key Person of TRC has competing professional or personal interest in a matter, which is the subject of a decision or duty by that person. Such competing interest may make it difficult for such person to fulfil their duties impartially and can create an appearance of impropriety even if no unethical or improper act results from the conflict. Includes Related Party Transactions, defined below. Any transaction of less than \$10,000.00 individually or in the aggregate shall be deemed de minimis.

Director: Any member of the governing body.

Financial Interest: A person has Financial Interest if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or other arrangement involving TRC.

Independent Director: A member of the Board of Directors who:

- i. has not been an employee or a key person of TRC or an affiliate of TRC within the last three years
- ii. does not have a relative who has been a key person of TRC or an affiliate of TRC within the last three years
- iii. has not received and does not have a relative who has received more than \$10,000 in compensation directly from TRC or an affiliate of TRC within the last three years

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 33 of 57



Conflict of Interest, Continued

Definitions, Continued

iv. Does not have a substantial Financial interest in or was an Officer of any entity that has provided payments, property or services to or received payments, property or services from TRC or an Affiliate of TRC in any of the last 3 fiscal years that exceeds the lesser of (a) \$100,000 or (b) 2% of the corporation's consolidated gross revenue if revenue was greater than \$10,000,000 (payment does not include charitable contributions or payments made by the corporations at fixed or non-negotiable rates as long as those services received by the corporation are also not otherwise available from another source).

Key Person: Any person, other than a director or officer, whether or not an employee of TRC, who:

- i. is authorized by the Board of Directors to execute documents on behalf of the agency
- ii. has responsibilities, or exercises powers or influence over TRC as a whole similar to the responsibilities, powers or influence of directors and officers (President, Chief Executive Officer or other title with similar responsibilities).
- iii. manages TRC, or a segment of TRC that represents a substantial portion of activities, assets, income or expenses of TRC (Chief Operating Officer or other title with similar responsibilities)
- iv. alone or with others controls or determines a substantial portion of TRC's capital expenditures or operating budget (Chief Financial Officer or other title with similar responsibilities)
- v. has responsibilities over substantial purchases or selection of vendors

Officer: A person designated as such in TRC By-Laws

Related Party: Persons who may be considered a Related Party of TRC under this policy include:

- i. Directors, Officers or Key Persons of TRC or an Affiliate of TRC
- ii. Relatives of Directors, Officers, or Key Persons of TRC or any Affiliate of TRC
- iii. Any entity in which a person in (i) or (ii) has a 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 34 of 57



Conflict of Interest, Continued

Definitions, Continued

Related Party Transaction: Any transaction, agreement or any other arrangement with TRC or an Affiliate of TRC in which a Related Party has a financial interest except that a transaction is not a Related Party Transaction if: (i) the transaction or the related party's financial interest in the transaction is de minimis, (ii) the transaction would not customarily be reviewed by the board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms, or (iii) the transaction constitutes a benefit provided to a related party solely as a member of a class of the beneficiaries that the corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms. Any Related Party Transaction will be considered a conflict of interest for purposes of this policy.

Relative: a spouse, ancestor, child (whether natural or adopted), grandchild, great grandchild, sibling (whether whole or half-blood) or spouse of a child (whether natural or adopted), grandchild, great grandchild or sibling (whether whole or half-blood).

Disclosure

1. Board of Directors shall complete, sign and submit a Conflict of Interest Disclosure Form and Independent Director Assessment Form to the Compliance Officer prior to their election or re-election to the Board of Directors and annually during multiyear terms, identifying, to the best of the director's knowledge:
 - a. Any entity of which such member of the Board is an officer, director, trustee, member, owner, or employee and with which TRC has a relationship; and
 - b. Any transaction in which TRC is a participant and in which such member of the Board might have a conflicting interest
2. Key Employees shall complete, sign and submit a Conflict of Interest Disclosure Form upon hire and annually thereafter.
3. All Board Advisory Committee members shall complete, sign and submit a Conflict of Interest Disclosure Form annually.
4. A copy of each disclosure form shall be provided by the Compliance Officer, to the Chair of the Audit Committee.
5. If at any time during his or her term of service, a Director, Officer or Key Employee acquires an interest, or circumstances otherwise arise, which could give rise to a real or potential Conflict of Interest and Related Party Transaction he or she shall promptly disclose, in good-faith, to the Board of Directors, or an authorized committee thereof, as appropriate, the material facts concerning such interest.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 35 of 57



Conflict of Interest, Continued

Addressing the Conflict of Interest

The Director, Officer, or Key Person may make a presentation at the Audit Committee meeting, but after such presentation that individual shall leave the meeting during any discussion of, and/or vote on the transaction, arrangement or activity being addressed as the possible conflict of interest. The individual with a conflict shall refrain from any attempts to improperly influence the deliberations and voting on the matter giving rise to the conflict.

After the exercise of due diligence, the Board shall determine whether TRC can obtain by reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement is not reasonably possible under the circumstances that does not produce a conflict of interest, the Board shall determine by a majority vote of the disinterested Directors then present and voting whether the transaction or arrangement is in TRC's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

Violations of Policy

If it is determined that a Director, Officer or Key Person has failed to disclose an actual or possible conflict of interest it shall take appropriate disciplinary and corrective action shall be taken.

Record of Proceedings

The existence and resolution of any conflicts of interest must be documented in the Audit Committee meeting minutes at which the conflict was discussed or voted upon

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 36 of 57



False Claims – False Claims Act

Introduction

It is the policy of The Resource Center, to remain committed to prompt, complete and accurate billing for all services provided by the agency. The Resource Center and its employees, contractors and agents shall not make or submit any false or misleading entries on any bills or claim forms or any documentation supporting such claims. No employee, contractor or agent shall engage in any arrangement or participate in such an arrangement at the direction of another person, including any supervisor or manager, that results in such prohibited acts.

Further, it is the policy of The Resource Center to detect and prevent fraud, waste and abuse in our program operations. This policy explains the Federal False Claims Act, 31 U.S.C. § 3729 *et seq.* and the NYS False Claims Act, NYS Fin Law ch 13 §§ 197-194, laws designed to prevent fraud, waste and abuse and sets forth the procedures The Resource Center will follow to prevent any violations of the False Claims Acts and to protect reporters thereof.

Overview of Relevant Laws

The following overview is provided to gain a better understanding of the associated requirements.

Federal False Claims Act

1. The Federal False Claims Act is one of the laws the Government uses to prevent and detect fraud, waste and abuse in federal health care programs. The Federal False Claims Act provides that anyone who “knowingly” submits false claims to the Government or to a contractor or grantee of the government is liable for damages up to three times the amount of the erroneous payment plus civil penalties between \$13,508.00 and \$27,018.00 for each false claim submitted. The Federal False Claims Act defines “knowingly” to mean that a person (1) has actual knowledge of the false claim; (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. Specifically, The Federal False Claims Act may be violated by the following acts:
 - a. Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval by the Federal Government;
 - b. Knowingly making or using, or causing to be made or used, a false record or statement to get a false claim paid or approved;
 - c. Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid;

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 37 of 57

False Claims – False Claims Act, Continued

Federal False Claims Act, Continued

- d. Knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay money or transmit property to the Government.
2. Applicability: Among other things, the Federal False Claims Act applies to claims submitted for payment to federal health care programs, including Medicare and Medicaid.
3. Examples: A few examples of actions that violate the Federal False Claims Act include knowingly:
 - a. Billing for services that were not actually rendered;
 - b. Charging more than once for the same service;
 - c. Billing for medically unnecessary services;
 - d. Falsifying time records used to bill Medicaid.
4. Methods of Enforcement: The Government, or an individual citizen acting on behalf of the Government (a “Relator”), can bring action under the Federal False Claims Act. If a Relator brings an action under the Federal False Claims Act, the Government has a period of time to investigate the allegations and decide whether to join the lawsuit. If the Government elects to join the lawsuit, The Relator is entitled to 15-25% of any recovery. If the Government elects not to join the lawsuit, the Relator may still proceed with the action and is entitled to 25-30% of any recovery.
5. Employee Protections: The Federal False Claims Act prohibits discrimination by The Resource Center against an employee for taking lawful actions in furtherance of an action under the Federal False Claims Act. Under the Federal False Claims Act, any employee who is discharged, demoted, harassed or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the Federal False Claims Act is entitled to relief necessary to make the employee whole. Such relief may include reinstatement, double back pay, interest on back and compensation for any special damages, including litigation costs and reasonable attorney’s fees.

Federal Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act of 1986 is a federal law that provides for administrative recoveries by federal agencies including the Department of Health & Human Services (HHS), which operates the Medicare and Medicaid programs. The law prohibits the submission of a claim or written statement the person knows or has reason to know is false, contains false information, or omits material information. Violations of this law are investigated by HHS and monetary sanctions may be imposed in an administrative hearing setting. Monetary sanctions may include penalties for each claim and damages of twice the amount of the original claim.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 38 of 57



False Claims – False Claims Act, Continued

Patient Protections and Affordable Care Act (PPACA)

The Patient Protection and Affordable Care Act of 2010 is a federal healthcare law that, through amendments, expanded provisions of the Federal False Claims Act. Most significantly, PPACA expanded FCA liability for possession of overpayments. The law clarified that an overpayment must be reported and returned by **60 days** after the date on which the overpayment was identified. Overpayments retained after the deadline are considered an obligation as defined in the FCA imposing FCA liability.

New York False Claims Act

The New York State False Claims Act was modelled after the Federal False Claims Act; its provisions are very similar. This Act provides anyone who “knowingly” submits false claims to the government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties between \$6,000 and \$12,000 for each false claim submitted. The term “knowingly” means a person has (1) actual knowledge of the false claim, (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.

The Government, or an individual citizen acting on behalf of the Government (a “Relator”), can bring actions under the New York State False Claims Act. In addition, the Act prohibits discrimination against any employee for taking lawful actions in furtherance of the action under the act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee whole.

Laws Preventing Waste, Fraud and Abuse

Social Service Law § 145-b. Under this section it is unlawful to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. In the event of a violation of this law, the local Social Services district or the State has a right to recover civil damages equal to three times the amount of the incorrectly paid claim. In the case of non-monetary false statements, the local Social Service district or State may recover three times the damages (or \$5,000, whichever is greater) sustained by the government due to the violation. In addition, the Department of Health may impose a monetary penalty of up to \$10,000 per violation unless a penalty under the section has been imposed within the previous five years, in which case the penalty may be up to \$30,000.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 39 of 57



False Claims – False Claims Act, Continued

**Laws
 Preventing
 Waste, Fraud
 and Abuse,**
 Continued

Social Services Law § 145-c. Under this section, if any personal individually or as a member of a family applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, then the needs of that person shall not be taken into account for determining the needs of that person or those of his or her family: (i) for a period of 6 months if a first offense; (ii) for a period of 12 months if a second offense, or upon an offense which resulted in the wrongful receipt of benefits in an amount of between \$1,000 and \$3,900; and (iii) for a period of 18 months if a third offense or upon an offense which resulted in the wrongful receipt of benefits in excess of \$3,900, and 5 years for any subsequent occasion of any such offense.

Social Services Law § 145. Under this section, any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor. This crime is punishable by fines and by imprisonment up to one year.

Social Service Law § 366-b. Under this section any person who, with intent to defraud, presents for payment any false or fraudulent claim for services or merchandise, or knowingly submits false information for the purpose of obtaining compensation greater than that to which he/she is legally entitled to shall be guilty of a class A misdemeanor.

Penal Law Article 155. Under this Article, 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 a trick, embezzlement, false pretense, false promise, including a scheme to defraud, or similar behavior. This crime is punishable by fines and imprisonment up to twenty-five years.

Penal Law Article 175. Under this Article, four crimes relating to falsifying business records or filing a false instrument have been applied in Medicaid fraud prosecutions. These crimes are punishable by fines and imprisonment up to four years.

Penal Law Article 176. This Article establishes the crime of insurance fraud. A person commits such a crime when he/she intentionally files a health insurance claim, including Medicaid, knowing that it is false. This crime is punishable by fines and imprisonment up to twenty-five years.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 40 of 57



False Claims – False Claims Act, Continued

**Laws
 Preventing
 Waste, Fraud
 and Abuse,
 Continued**

Penal Law Article 177. This Article establishes the crime of health care fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), he/she knowingly and wilfully provides false information or omits material information for the purpose of requesting payment for a health care item or services and, as a payment in an amount to which he/she is not entitled. Health care fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime.

Labor Law § 740. In addition to provisions contained in the Federal and New York State False Claim Acts, this section offers protections to employees who may notice and report inappropriate activities. Under New York State Labor Law § 740, an employer may not take any retaliatory personnel action against an employee because the employee:

- Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud;
- Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into such violation of a law, rule or regulation by such employer; or
- Objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule, or regulation.

To bring an action under this provision, the employee must first bring the alleged violation to the attention of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. The law also provides that employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

Labor Law § 741. Under this section, an employer may not take any retaliatory personnel 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 gives the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 41 of 57



False Claims – False Claims Act, Continued

**Laws
 Preventing
 Waste, Fraud
 and Abuse,**
 Continued

employee believes in good faith that reporting to a supervisor would not result in corrective action. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs.

Procedures

Reporting Non-Compliance

1. TRC provides training to all employees, contractors and agents regarding this policy.
2. Billing activities are performed in a manner consistent with Medicare, Medicaid, and other payor regulations and requirements and in accordance with TRC's documentation and billing policies and procedures.
3. To assist in its efforts to detect and prevent waste, fraud, and abuse, TRC conducts regular audit and monitoring procedures, see 4.2.1 Corporate Compliance Plan.

This policy is included on the TRC intranet for all to see.

If an affected individual of The Resource Center has any reason to believe that anyone is engaging in fraudulent billing practices, that individual shall immediately report the practice to their supervisor and/or the Corporate Compliance Officer at 716-661-1011 or via e-mail to TRC.Compliance@resourcecenter.org. If the practice is reported to the supervisor, the supervisor must report the issue to the Compliance Officer. The reporting individual's identity will be kept confidential unless the matter is turned over to law enforcement.

Employees and contractors can also report anonymously to the hotline at 716-661-1011. The Corporate Compliance Officer will be responsible to initiate and conduct a thorough investigation. The results of the investigation will be preserved by the Corporate Compliance Officer and reported to the appropriate authorities, Compliance Committee and Board of Directors.

NYS Whistleblower Protections – Provides protection to whistleblowers that are discharged, suspended, harassed or threatened. This includes any manner of discrimination against the whistleblower by their employer. The employee's disclosure is protected only if the employee first notified their supervisor of the matter and gave the employer reasonable opportunity to address and correct the alleged matter, unless the danger is imminent to the patient or public and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 42 of 57



False Claims – False Claims Act, Continued

Procedures,
Continued

Non-Retaliation

The Resource Center will not retaliate against any individual for taking lawful action under the Federal or State False Claims Acts. The Act prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of any action under the False Claims Act is entitled to all relief necessary to make the employee whole. No employee or contractor will be retaliated against for reporting any potential compliance concern as described in the Corporate Compliance Policy, Standards of Conduct, and Employee Handbook.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 43 of 57



False Claims – Reporting and Monitoring

Introduction To ensure The Resource Center follows standards and best practices in the delivery of services for which it receives payment, a system will be put in place to report and monitor actions taken to address identified billing concerns.

General Principles Billing activities are to be performed in a manner consistent with Medicare, Medicaid and other payor regulations and requirements and in accordance with The Resource Center’s documentation and billing policies and procedures.

Reporting Non-Compliance If a Resource Center employee or contractor has any reason to believe that anyone is engaging in fraudulent billing practices, that person shall immediately report the practice to their supervisor and/or the Corporate Compliance Officer at 716-661-1011 or via e-mail to TRC.Compliance@resourcecenter.org. If the practice is reported to the supervisor, the supervisor must report the issue to the Compliance Officer. The reporting individual’s identity will be kept confidential unless the matter is turned over to law enforcement.

Monitoring To assist in its efforts to detect and prevent fraud, waste and abuse, The Resource Center conducts regular audit and monitoring procedures. See 4.2.1 Corporate Compliance Plan.

If there is an identified issue of concern indicative of repayment, the Compliance Officer will be contacted. The Corporate Compliance Officer/Designee will be responsible to complete the following:

Step	Action
1.	Determine if an investigation is warranted
2.	Identify the purpose and scope of investigation
3.	Initiate and conduct a thorough investigation
4.	Schedule meeting with the core team members, which includes the director of the program/designee, upon completion of the investigation
5.	Report recommendations and expected due dates for the director/designee to respond and/or resolve the issue of concern
6.	Determine need to self-disclose and/or report to other governing bodies
7.	Verify program has reported to the appropriate authorities
8.	Report to The Compliance Committee, appropriate authorities and Board of Directors
9.	Preserve results or maintain investigation documentation

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 44 of 57



False Claims – Reporting and Monitoring, Continued

**Program
 Director
 Responsibilities**

The director/designee of the program will be responsible to complete the following:

Step	Action
1.	Review report, identify corrective actions and respond in a timely and thorough manner Note: If unable to meet obligations, provide justification to the Compliance Officer and the AED liaison responsible for overall operations of the program.
2.	Report to appropriate authorities as directed by Compliance Officer
3.	Work with Finance to complete payback transaction within 60 days of identification
4.	Notify Compliance Officer when actions are completed and provide documented evidence of payment if needed

Non-Retaliation

The Resource Center will not retaliate against any individual for taking lawful action under the Federal or State False Claims Acts. Moreover, The Resource Center will not retaliate against any affected individuals for reporting any potential compliance concern, as described in the Corporate Compliance Plan, the Code of Ethics, Standards of Conduct and the Employee Handbook.

NOTE: All contractors will also be aware of this policy.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 45 of 57



Whistleblower

Policy The Resource Center (TRC) requires all affected individuals to promptly report any known or suspected violations of the Corporate Compliance Plan, Standards of Conduct, policies and procedures, or any of the laws, rules or regulations by which TRC is governed. This policy governs the procedure used to report compliance concerns and seeks to ensure that TRC provides an environment that encourages individuals to report any suspected violations without fear of retaliation or retribution.

Form Compliance Intake Form

Scope This policy applies to all affected individuals of TRC. This policy is posted to TRC's website and TRC's Agency Policy Manual. The Board oversees implementation of the compliance with this policy.

Definition All Affected Individuals: Everyone affected by The Resource Center's risk areas, including employees, the Executive Director and the Executive Management Team, managers, contractors, agents, subcontractors, independent contractors, and the Board of Directors. (NYCRR Title 18, Section 521-1.2)

Procedure Duty to Report
 All affected individuals are required to report any known or suspected violations of the Corporate Compliance Plan, Standards of Conduct, policies and procedures or any of the laws, rules or regulations by which TRC is governed to their supervisor, manager, the Corporate Compliance Officer or through TRC's compliance hotline.

Process for Reporting:

Compliance concerns may be reported to:

- Compliance Hotline: (716) 661-1011
 - *Callers to the Compliance Hotline may make reports anonymously. No caller is required to disclose their identity and no attempt is made to trace the source of the call or identity of the caller when the caller requests anonymity.*
- Compliance E-mail: TRC.Compliance@resourcecenter.org

NOTE: TRC treats all reports made under this policy confidentially. A person's identity will be kept confidential unless the matter is turned over to law enforcement.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 46 of 57



Whistleblower, Continued

Procedure,
Continued

Tracking/Responding to Reports

Any manager or supervisor who receives a report of a suspected violation will:

- Complete a Compliance Intake Form (See Compliance Intake Form Attached)
- Immediately direct the Compliance Intake Form to the Compliance Officer

The Compliance Officer will:

- Complete a Compliance Intake Form for all reports received through the Compliance Office
- Upon receipt of a Compliance Intake Form, the Compliance Officer or their designee will respond following policy 4.2.8 Responding to Compliance Issues.
- Prepare a report to the Audit Committee at least annually summarizing incidents reported, investigatory findings and any corrective actions taken

NOTE: The person who is subject of the whistleblower complaint may not be present or participate in board or committee deliberations or vote on the matter relating to the complaint (except that nothing prohibits the person from providing background information or answering questions before deliberations/voting begin)

Non-Retaliation/Non-Retribution

All affected individuals are prohibited from engaging in any act, conduct or behavior which results in, or is intended to result in, retaliation or intimidation. Even if the alleged misconduct cannot be substantiated, the individual is protected from retaliation. However, the retaliation provision is not intended to protect persons intentionally making false allegations.

If an affected individual believes that they have been retaliated against it should be reported to TRC's Compliance Hotline, (716) 661-1011 as soon as possible. Allegations of intimidation or retaliation will be investigated.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 47 of 57



Exclusion Screening

Purpose As mandated by federal and state laws and in accordance with The Resource Center’s (TRC’s) Compliance Plan, TRC will conduct required exclusion screenings on all affected individuals, referral sources, and contractors. This Policy and Procedure provides guidance on respective processes to ensure all required screening occurs, that screenings are tracked and monitored, and any potential exclusions are investigated and immediately acted upon.

Policy The Resource Center will not employ, allow to serve on its Board, contract with, or accept referrals from any individual or entity excluded, debarred, suspended from, or otherwise ineligible to participate in a federal sponsored healthcare program, Federal Procurement or non-procurement program.

Definitions **Ineligible Person:** an individual or entity that is excluded, debarred, suspended, or otherwise ineligible to participate in any federal health care programs or in federal procurement or non-procurement programs. This includes employees, Board Members, contracted agents, and vendors.

Referral Sources: For the purpose of this policy, referral sources shall mean all physicians, practitioners, and providers who order health care services or prescribe prescriptions provided by The Resource Center.

Exclusion Lists: An Exclusion List means the following lists, which are checked in accordance with the procedures detailed in these documents:

1. U.S. Department of Health and Human Services, Office of Inspector General (OIG)’s List of Excluded Individuals and Entities (LEIE) available on the website at <http://exclusions.oig.hhs.gov>
2. The System for Awards Management (SAM) Exclusion List available at <https://sam.gov/portal/SAM/#1>
3. NYS Medicaid Fraud Database available on the NYS Department of Health website at <http://www.emedny.org/info/disqualified.html>
4. The OIG Most Wanted Fugitives available at <https://oig.hhs.gov/fraud/fugitives/index.asp>
5. The Office of Foreign Assets Control-Specially Designated nationals available at <https://sanctionssearch.ofac.treas.gov/>

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 48 of 57



Exclusion Screening, Continued

Definitions, Continued

Other sources and lists will be checked if a potential employee's application for employment indicates that he/she worked in any other state(s); or if a contractor has worked, or works, in any other state(s), the equivalent state-specific lists will be checked, if available.

Affected Individuals: all persons who are affected by the required provider's risk areas including employees, the executive director and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers (N.Y. Comp. Codes R. & Regs. Tit. 18, § 521-1.2).

Procedure

A. PROCEDURES FOR DETERMINING INELIGIBILITY

a. Employees/Board Members

- i. New Employees/Board Members. Before hiring any new employee or nominating a board member, the Human Resource designee will check the individual's name against the Exclusion Lists. If the individual's name appears on any of the Exclusion Lists, any offer of employment or nomination must be withdrawn and the individual may not be hired or elected. If clear evidence is presented showing that the matters leading to their appearance on the Exclusion Lists have been finally resolved, they are no longer an Ineligible Person. If a potential employee's application for employment indicates that he/she worked in any other state(s), the equivalent state-specific lists, if available, will be checked.
- ii. Monthly Checks of Current Employees/Board Members. Once every 30 days, the Human Resource Designee will check the names of all current employees and board members against each of the Exclusion Lists. If an individual's name appears on any of the Exclusion Lists, the procedures set forth in Section B, below, will be followed.

b. Referral Sources

- i. New Referral Sources. Before accepting orders (including prescriptions) directing TRC healthcare service delivery from any new referral source, the Clinical Services Designee will, at minimum, check the referral source against the Exclusion Lists. If the referral source appears on any of the Exclusion Lists, they may not serve as a referral source to TRC.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 49 of 57

Exclusion Screening, Continued

Procedure,
Continued

If clear evidence is presented showing that the matters leading to their appearance on the Exclusion Lists have been finally resolved, they are no longer an Ineligible Person.

ii. Monthly Checks of Referral Sources. Once every 30 days, the Clinical Services Designee will check the names of all current health care referral sources and prescribers against each of the Exclusion Lists. If a referral source appears on any of the Exclusion Lists, the Procedures set forth in Section B, below, will be followed.

c. Contractors/Vendors

i. New Contractors/Vendors. Before utilizing any new contractors/vendors, the Finance Department designee will check the contractor/vendor name against the Exclusion Lists. If the name appears on any of the Exclusion Lists, no business relationship will be established. If clear evidence is presented showing that the matters leading to their appearance on the Exclusion Lists have been finally resolved, they are no longer an Ineligible Person.

ii. Monthly Checks of Current Contractors/Vendors. Once every 30 days, The Finance Department Designee will check the names of all current contractors/vendors against each of the Exclusion Lists. If a contractor/vendor's name appears on any of the Exclusions Lists, the Procedures set forth in section B, below, will be followed.

B. RESPONSE TO DETERMINATION OF INELIGIBILITY

Should any of the aforementioned processes result in the determination that any individual/entity is, or has been, an Ineligible Person, the following procedures will be followed:

a. Notify the Corporate Compliance Officer

The Corporate Compliance Officer will be immediately notified. The Corporate Compliance Officer will promptly notify all other individuals and departments within TRC that are necessary and appropriate.

b. Suspension of Billing or Payment

If an ineligibility determination relates to an individual or entity for which claims for reimbursement are being submitted by or on behalf of TRC to a Federal healthcare Program, any such billing or payment that is related (whether directly or indirectly) to the Ineligible Person will be immediately suspended.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 50 of 57



Exclusion Screening, Continued

Procedure,
Continued

c. Internal Investigation and Corrective Action

The Corporate Compliance Officer will complete an investigation of the matter, and corrective action will be implemented by TRC. Actions may include, but are not limited to:

Suspension without pay or termination of an individual's employment or contract; termination of a contractor's agreement; not accepting orders, prescriptions or referrals from such individual or entity; the payback or reimbursement of monies improperly received, in accordance with applicable law; and/or disclosure of reporting to the appropriate government agency or agencies, in accordance with applicable law.

NOTE: All individuals/entities have a duty to report any action that would render that individual or entity an Ineligible Person.

C. DOCUMENTATION

Written verification will be provided on a monthly basis to the Compliance Officer that the required checks of each of the exclusion lists have been completed

D. QUESTIONS/ENFORCEMENT

If you are aware of a situation that you believe may violate this Policy, you must promptly contact an immediate supervisor and/or the Compliance Officer. Reports may also be submitted anonymously via the TRC Compliance Hotline at (716) 661-1011.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 51 of 57



Self Disclosure

Purpose The Resource Center identifies and responds to confirmed noncompliance of federal, state, and local statutes, rules, regulations, Medicaid Program Requirements, and The Resource Center’s Compliance Program, including reporting and returning obligations.

Policy It is the policy of The Resource Center to respond appropriately to violations of federal, state, and local statutes, rules, regulations, Medicaid Program requirements, or the Compliance Program to protect The Resource Center and continue to improve upon its reputation as a reliable and trustworthy organization.

Definitions **Affected Individuals:** All persons affected by The Resource Center’s risk areas including employees, the Executive Director, executive management, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers

Overpayment: any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake

Identification: For the purpose of this policy, identification is defined as “The Chapter has determined that they have received an overpayment and quantified the amount and scope of the overpayment.”

Responsibility Self-disclosure is overseen by The Resource Center’s Compliance Officer and Compliance Committee. They are responsible for monitoring implementation of this policy and reviewing and revising it, at least annually.

Identification & Response to a Violation Potential violations to The Resource Center’s Compliance Program or applicable local, state, and/or federal law or regulation may be identified through various avenues including, but not limited to:

- Voluntary disclosures by employees
- Calls to the Compliance Hotline (716-661-1011)
- Self-audit
- Auditing and monitoring
- Outside investigations by consultants, government agencies, or accrediting bodies
- Any other means

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 52 of 57



Self Disclosure, Continued

Identification & Response to a Violation,
Continued

Upon notification of the potential violation, the Compliance Officer initiates an investigation, consistent with the agency's policies and procedures. The investigation seeks to identify the root cause of the identified overpayment and explore the potential for any addition overpayments.

Upon confirmation by the Compliance Officer, the Compliance Committee is made aware that violations have occurred and the Compliance Officer coordinates the agency's response by evaluating each alleged violation and promptly implementing action consistent with the following:

- Development and Implementation of the Corrective Action Plan
- Disclosure to state or federal regulatory agencies, if applicable;
- Making restitution of any overpayments to the appropriate payer (i.e. commercial health plan, government payor, or individual or their family)

Development of a Corrective Action Plan

The Compliance Officer assists the Program leadership with developing their appropriate Corrective Action Plan; the Program provides input, but the Compliance Officer and Compliance Committee will make a final determination, depending on the scope and severity of the violation.

Corrective Action Plans (CAP) will be stated in measurable terms, with progress monitored regularly (i.e. monthly or quarterly) as appropriate. Language in the CAP should reflect every effort by The Resource Center to comply with applicable statutes, rules, regulations, and federal healthcare program requirements. The CO is responsible for ensuring CAPs are followed and that feedback is provided to the Program leadership on the plan progress.

Elements that may be included in a CAP include, but are not limited to, disciplinary action against employees and other affected individuals responsible; revising or developing policies and procedures; training specific to the violation; and more.

The CO or representatives from affected programs present progress reports on CAPs to the CC during regularly scheduled meeting; regular updates are provided to the CERS Committee and Board of Directors. If requested, more frequent updates may be submitted.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 53 of 57



Self Disclosure, Continued

Voluntary Disclosure of Violations

The CO, in consultation with the Executive Director and CC, evaluates the violation to determine if a voluntary disclosure of the violation is appropriate. The CO may consult with NYSARC and/or counsel on the notification of relevant government officials, private payors, or other entities in the event of a violation where voluntary disclosure of the violation may be appropriate. Notification is made within a reasonable period, but no later than 60 days absent waiver by the authorized federal or state agency, after discovering the violation. Repayment of monies paid by the applicable state or federal agency, payor, or other entity is also made as necessary.

Overpayments

Exploration of a potential violation of the Compliance Program or an applicable local, state, and/or federal statute, rule, or regulation may sometimes reveal an overpayment received from a state or federal payor.

All overpayments are reported, returned, and explained in accordance with applicable state and federal statutes, rules, and regulations.

Medicaid overpayments are managed in accordance with the Medicaid self-disclosure requirements, including procedures and timeframes as directed by Social Services Law 363-d and New York regulations at Title 18, Part 521-3 (Self-Disclosure Program). The Resource Center will report, return, and explain any Medicaid overpayments received within 60 days of identification or by the date any corresponding cost report is due, whatever is later.

Applying the Self-Disclosure Process

TRC must file a (1) Self-Disclosure Full Statement (including a Claims Data File of affected Medicaid Claims or Mixed Payer Calculation form for Excluded Providers) or a (2) Self-Disclosure Abbreviated Statement. If the Medicaid payment is not related to claim data or is related to an excluded or non-enrolled provider, a Self-Disclosure Full Statement is required. The error identified determines what form is appropriate. Errors that require formal corrective action plans should always be self-disclosed using the Self-Disclosure Full Statement, while errors that are more transactional or routine in nature and are already repaid through voids/adjustments may be better disclosed through the Abbreviated Statement.

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 54 of 57



Self Disclosure, Continued

Self Disclosure Full Statement

Examples to be self-disclosed using the Self-Disclosure Full Statement include, but are not limited to:

- Any error requiring TRC to create and implement a formal corrective action plan;
- Actual, potential, or credible allegations of fraudulent behavior by employees or others;
- Discovery of an employee on the Excluded Provider list;
- Documentation errors that resulted in overpayments;
- Overpayments that resulted from software or billing systems updates;
- Systemic billing or claiming issues;
- Overpayments that included more than one Medicaid entity/provider (i.e. Health Homes and Care Management agencies);
- Non-claim-based Medicaid overpayments;
- Any error with substantial monetary/program impacts; and
- Any instance upon direction by OMIG.

For disclosures using the Self-Disclosure Full Statement, OMIG requires:

- Overpayment amount
- A detailed explanation of the reason TRC received the overpayment/caused the overpayment to be received, including an explanation of the circumstances that led to the overpayment
- Identification of any rule, policy, regulation or statute violated
- Identification of the individuals involved in the error and discovery of the error
- The type of Medicaid program affected
- Corrective measures put into place to prevent reoccurrence, etc.
- Contact information
- Signature of the disclosing entity/Provider
- Signatory and Title of the person responsible to sign the documents
- Claims data file or MPC form, if applicable
- Agreement to the terms of disclosure
- Confirmation that void or adjustment transactions have been processed, or agreement to return the overpayment amount within fifteen (15) days of written notification to OMIG, or agreeing to executing a SDCA to repay in instalments if approved by OMIG

The Claims Data File should include the following for each disclosed claim:

- Payer name (Medicaid FFS or MCO/MLTC name)
- Claim Reference Number of Transaction Control Number (16 digits)
- Claim Line Number

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023 Page 55 of 57



Self Disclosure, Continued

Self Disclosure Full Statement, Continued

- Medicaid Group ID (if applicable)
- Billing Provider's Medicaid MMIS ID (Billing Provider ID) and NPI number
- Medicaid recipient's first name, last name, their Medicaid ID number (CIN), an 8-character number (ex: AA\$\$\$\$A), date of birth, and SSN
- Date of service (not date billed/payment date)
- Incorrect rate or procedure codes (if applicable)
- Correct rate or procedure codes
- Incorrect units paid (if applicable)
- Correct units
- Amount Medicaid paid
- Amount Medicaid should have paid
- Amount paid by Medicare or any other third party (if applicable)

Self-Disclosure Abbreviated Statement

Examples to be self-disclosed using the Abbreviated Statement

- Routine credit balance/coordination of benefits overpayments;
- Typographical human errors;
- Routine net available Monthly Income (NAMI) adjustments;
- Instance of missing/faulty authorization for services due to human error;
- Instance of missing or insufficient support documentation due to human error;
- Inappropriate rate, procedure, or fee code used due to typographical or human error;
- Routine receipt enrollment issue

Self-Disclosure Abbreviated Statements must include

- Provider Federal Employee Identification Number (FEIN) or SSN
- Provider name or DBA
- Contact name, title, phone number, and email
- Overpayment Identification Period
- TCN(s) of voided or adjusted claim(s)
- Overpayment Reason for each voided or adjusted claim
- Total amount voided or adjusted during the Identification Period

Continued on next page

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 56 of 57



Self Disclosure, Continued

Additional Resources and Notification to The Arc New York

Guidance on OMIG’s Self-Disclosure Program can be viewed at www.omig.ny.gov

The Resource Center may seek support from The Arc New York’s Compliance Department on matters pertaining to potential violations, including those that may result in voluntary disclosure. The Resource Center should report to The Arc New York compliance staff every occurrence or discovery of an internal matter that results in a self-disclosure or referral to a state or federal oversight or regulatory agency or body including, but not limited to: NYS Office of Medicaid Inspector General (OMIG) or the Medicaid Fraud Control Unit (MFCU) of the NYS Attorney General’s Office. The notification should be made no later than five business days after the self-disclosure and include a copy of the self-disclosure letter or other documentation. If no written documentation exists, notification should include a summary of the events as described to the state or federal agency.

CHAPTER 4 -Standard Operating Procedures Compliance	Manual: Agency Policy and Procedure Application: Agency-Wide	
Sections combined for electronic ease of access	Executive Reviewer(s): Jacqueline Phelps, AED QA/QI & Compliance; Jessica Smith, Director of Corporate Compliance	
Regulatory Ref: Agency Standards 18 NYCRR 521; NYS SSL 363 (d)	ABP: 12/12/12 rev 9/9/15; 2/28/22; 05/19/2023	Page 57 of 57