



CORPORATE COMPLIANCE PLAN

AccessCNY has developed a Corporate Compliance plan in an effort to comply with applicable State and Federal laws. The purpose of an effective corporate compliance plan is to reduce waste and prevent fraud and abuse. Adhering to AccessCNY's corporate compliance program is the responsibility of all affected individuals including; employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers. AccessCNY is committed to providing quality services and billing for services in a legal and ethical manner to ensure that the agency's reputation is protected, and the agency's mission is attained.

Mission Statement:

AccessCNY offers person-centered services that empower individuals of all ages and abilities to reach their full potential as part of our shared community. Services are provided with dedication, compassion, innovation, and commitment.

Board of Directors Endorsement

The Board of Directors is committed to ensuring AccessCNY's compliance with all applicable rules and laws, which govern compliance. The Board of Directors has approved AccessCNY's Corporate Compliance plan and have an active role in the oversight of the implementation of the Corporate Compliance plan. The Board's Governance and Compliance Committee meets with the Compliance Committee of the Agency quarterly to review and support Compliance needs.

The Board of Directors' orientation process includes training about the corporate compliance program and the governing body's responsibility to ensure that the agency maintains proper procedures and documentation. Board Members receive Compliance Training annually.

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Definitions:

“Affected persons”: All persons who are affected by AccessCNY’s risk areas including the employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers.

“Compliance Officer”: Oversee the Agency’s quality assurance, corporate compliance, service review, participant satisfaction and staff training activities. Serve as AccessCNY’s Corporate Compliance Officer and Privacy Officer. Oversee the performance outcomes of the agency as it related to valued based outcomes and managed care. *See job description for Associate Executive Director of Quality and Performance at _____.*

“Compliance Committee”: AccessCNY is committed to ethical and legal conduct while providing quality services. This Committee is responsible to collaborate and support the agency’s Corporate Compliance Officer to ensure the written policies and procedures, the required standards of conduct are current, accurate, and complete, and that the required compliance training topics are completed timely. This Committee serves in an advisory capacity as Committee to AccessCNY (“Agency”) to coordinate with the Compliance Officer to ensure the Agency is conducting business in an ethical and responsible manner consistent with the Compliance Plan. *Refer to Compliance Committee Charter herein at _____.*

COMPLIANCE PLAN ELEMENTS

AccessCNY is committed to ensuring compliance with all applicable laws and regulations. AccessCNY's Corporate Compliance Plan complies with the Office of the State Medicaid Inspector General's eight required elements and shall be applicable to:

- Billings
- Payments
- Medical necessity and quality of care
- Governance
- Mandatory reporting
- Credentialing
- Ordered Services
- Contractor, subcontractor, agent, or independent contract oversight; and
- Other risk areas that are or should with due diligence be identified by AccessCNY

1. Designation of a Compliance Officer and Compliance Committee:

AccessCNY's Board of Directors has designated the Associate Executive Director of Quality and Performance as the agency's Compliance Officer. The Compliance Officer is a member of the Executive Team and reports directly to the Executive Director and has unrestricted access to the Board of Directors related to Compliance.

The Committee and Officer are responsible for reviewing compliance investigations, monitoring audit and risk trends, and ensuring that the agency's compliance plan meets all required elements. The Compliance Committee Charter identifies member responsibilities and is reviewed annually. The committee reports directly and is accountable to the Chief Executive Director and the Governance and Compliance Committee of the Board of Directors.

Responsibilities of the Compliance Officer are outlined in the Associate Executive Director of Quality and Performance job description provided herewith at _____.

The Compliance Committee will coordinate with the Compliance Officer and assume the duties outline in the Compliance Committee Charter provided herewith at _____.

2. Written Policies and Procedures:

AccessCNY has developed several policies and procedures as part of the agency's compliance plan in compliance with and under the guidance of the Office of Medicaid Inspector General (OMIG). AccessCNY has also developed a Compliance Code of Conduct that all employees and Affected Individuals are required to adhere to. AccessCNY's compliance policies and procedures include, but are not limited to compliance program education, internal and external audits, billing, State and Federal False Claims Act, reporting and investigating compliance issues, return of overpayments, non-intimidation and non-retaliation, record retention and destruction and protection and security of information in compliance with HIPAA and FERPA laws.

When contracting with Medicaid Managed Care Organizations, AccessCNY will adhere to all requirements set forth in each contract.

All compliance policies will be reviewed at least annually to determine:

- a) if all policies, procedures and standards of conduct have been implemented;
- b) whether affected individuals are following the policies, procedures and standards of conduct;
- c) whether policies, procedures and standards of conduct are effective; and

d) whether any updates are required.

Compliance Policies are available online at www.accesscny.org. Employees have access to policies through the employee intranet on SharePoint. Compliance Policies are included herein and part of this policy herein.

3. Training and Education:

All AccessCNY employees, interns, students and volunteers working in a Medicaid billable program receive training on the agency's Compliance Plan, Federal and State False Claims Act, Whistleblower Protections and HIPAA Privacy and Security requirements during orientation and annually. Board members receive training on AccessCNY's compliance plan during Board orientation and then during the annual presentation by the Compliance Officer. All other Affected Individuals receive training upon commencement of a new contract. All employees and affected individuals are required to sign an attestation that they received and understand the training and will not participate in or cover up fraudulent activities. After the initial orientation training, AccessCNY's Corporate Compliance and HIPAA training is provided to all employees and affected individuals on an annual basis. The agency's Corporate Compliance brochures are also available in the buildings' main lobby for participants and visitors.

Compliance training remains a priority as a standing item for individual program staff meetings as well as bi-monthly Leadership meetings. Monthly Compliance emails are sent to managers identifying topics to focus on that month at staff meetings. Those topics are reinforced and discussed at Leadership meetings. As new regulations are released, this information is shared with the applicable programs and discussed during regular compliance meetings.

Refer to the agency's training plan for additional information.

4. Communication Lines to the Compliance Officer:

Reporting of compliance issues and/or suspected fraud is the responsibility of all AccessCNY employees and Affected Individuals. The Compliance Officer has been designated as the contact for complaints, questions, suggestions and reporting of compliance issues. All AccessCNY employees and affected individuals are required to report any misconduct, fraudulent acts and/or compliance issues that they witness, suspect or are asked to participate in or cover up. Reports can be made to a supervisor or directly to the Compliance Officer. Reports can be made in person, by phone or email or via the AccessCNY Compliance Hotline. The Compliance Hotline is a voicemail box and can be accessed directly at **(315) 410-3333 or at ext. 3171**. All reports made to the hotline can be made anonymously as there is no way to identify the caller or the number the call is being made from. Hotline information is available on AccessCNY's website.

Upon receipt of a question or concern, any supervisor or director shall document the issue at hand and promptly report to the Compliance Officer.

Any questions or concerns relating to potential non-compliance by the Compliance Officer should be reported immediately to the Executive Director.

All Medicaid recipients have access to the Compliance Officer's contact information on the website and through intake and annual paperwork.

5. Disciplinary Policies:

Corporate Compliance is an expectation of all AccessCNY employees, Board Members, and Affected Individuals. The agency has developed disciplinary policies that provide the potential consequences of non-compliance for employees, the Board of Directors, and other Affected Individuals such as contractors and vendors.

AccessCNY is committed to ensuring that the discipline for non-compliance is enforced in a fair, consistent, and firm manner at all levels of the organization. Employees and Affected Individuals who fail to comply with AccessCNY's Compliance Code of Conduct, Compliance Plan and standards, or who have engaged in conduct that has the potential of impairing AccessCNY's status as a reliable, honest, and trustworthy service provider will be subject to disciplinary action, up to and including termination of employment, contract, assignment or association with AccessCNY. All Affected Individuals are expected to assist as needed in any compliance investigations.

Disciplinary actions will also be taken for anyone who participates in non-compliant behavior or activities, encourages, directs or facilitates non-compliant behavior, participates in the cover up of such activities or fails to report such activities after witnessing or becoming aware of them. Anyone substantiated for fraud will be terminated.

Managers and supervisors will be disciplined for failure to adequately instruct their subordinates, or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided AccessCNY with the opportunity to correct them.

Human Resources policies and Disciplinary Policies for Employees located herein at _____.
Disciplinary Policy for the Board of Directors is located herein at _____.
Disciplinary Policies for Affected Individual herein at _____ and online at _____.
AccessCNY's Code of Conduct policy is located herein at _____.

6. Auditing and Monitoring

An ongoing auditing and monitoring system, implemented by the Compliance Officer and in consultation with the Compliance Committee, is an integral component of the agency's auditing and monitoring systems. This ongoing evaluation shall include the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions;
- Compliance audits of Corporate Compliance policies and standards; and
- Review of documentation and billing relating to claims made to federal, state, and private payers for reimbursement, performed internally or by an external consultant as determined by Compliance Officer and Compliance Committee.

AccessCNY has developed a system for self-monitoring to ensure that services are provided, and claims are billed in compliance with applicable rules and regulations as well as in compliance with the agency's Best Practices.

The agency has developed a risk assessment that each department completes annually. The Compliance Officer and Compliance Committee review the assessments and then prioritize risk of all agency programs. The Compliance Officer completes a work plan based on the results of the risk assessments that is shared with all agency programs for implementation. The Quality

Enhancement department has developed audit tools for each program to ensure compliance with applicable rules and regulations. Billing audits are conducted monthly to ensure all billing requirements are met.

Deficiencies from external audits are also monitored by the Quality Enhancement team to ensure deficiencies are corrected.

Compliance meetings are held regularly with program staff to review trends identified in internal and external audits, investigation findings, updated regulations, status of the compliance work plan, status of high-risk programs, and other related compliance activities. Programs are also encouraged to complete peer audits and those results are shared with the QE Department.

Sometimes internal audits and/or complaints reveal documentation and/or billing errors that require further investigation, return of overpayments and/or self-disclosure to the Office of Medicaid Inspector General.

AccessCNY complies with any requests from Medicaid Managed Care Organizations according to the requirements outlined in the contract.

All compliance concerns are shared with the compliance committee quarterly.

Exclusion screenings are conducted according to the Exclusion Screening policy. Any concerns are reported to the Compliance Officer for further investigation and follow-up.

Please refer to the following Audit Policies herein at _____.

7. Responding to Compliance Issues:

AccessCNY takes all reports of non-compliance seriously and has established a procedure for investigating compliance issues. Please refer to the Compliance Investigation standard at ____.

When an individual makes a complaint or a compliance issue is discovered, the Compliance Officer initiates an investigation immediately; the type of investigation is dependent on the nature of the complaint.

The Compliance Officer, in conjunction with legal counsel as appropriate, shall ensure that all reports of suspected or actual non-compliance with AccessCNY's Compliance Code of Conduct, Compliance Plan, and compliance policies are thoroughly investigated and corrective actions are taken as appropriate.

Information obtained during a compliance investigation is confidential and only shared with the appropriate Management personnel, as necessary. AccessCNY may be required to disclose information obtained in an investigation when outside agencies such as OMIG, law enforcement, OPWDD, or OMH become involved.

The Compliance Officer shall maintain a record of the investigation, including copies of all pertinent documentation for ten years. The investigation may include, but is not limited to, the following:

- Interviews with individuals having knowledge of the facts alleged;

- A review of documents;
- Root cause analysis; and
- Legal research and contact with governmental agencies for the purpose of clarification.

The investigation record is confidential and will not be released without the approval of the Executive Director or legal counsel.

The Compliance Officer will ensure that corrective action plans are developed and implemented for all confirmed issues of non-compliance.

The Compliance Officer shall report quarterly to the Compliance Committee regarding each investigation conducted.

The Compliance Officer shall report compliance activity to the Board of Directors in a quarterly written report, including reports of non-compliance and investigative findings.

If AccessCNY identifies that an overpayment was received from any third-party payer, the appropriate regulatory (funder) and/or prosecutorial (attorney general/police) authority will be appropriately notified with the advice and assistance of counsel when necessary. It is Agency policy to not retain any funds that are received as a result of overpayments. In instances where it appears that an affirmative fraud may have occurred, appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.

Statutory Guidelines

AccessCNY is committed to compliance with all State and Federal laws and regulations. Compliance with the following federal and state laws and regulations will be adhered to at all times. Affected individuals are encouraged to reach out to the Compliance Officer with any concerns.

Deficit Reduction Act of 2005

Chapter 3 of the Deficit Reduction Act (DRA) includes several provisions intended to improve 'payment integrity' in the Medicaid program. Section 6032 requires health care organizations to specifically inform employees about the federal False Claims Act, and similar state laws, and about the whistleblower protections incorporated into these laws.

Federal False Claims Act

The False Claims Act, 31 U.S.C. 3729 *et seq.*, is a federal law that imposes liability on any person or entity who submits a claim to the federal government that they know (or should have known) is false. This act is designed to prevent and detect fraud, waste and abuse in federal healthcare programs, including Medicaid and Medicare.

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

The State False Claims Act imposes fines and penalties on individuals and agencies that file false and fraudulent claims for payment from any state or local government, including health care programs such as Medicaid.

AccessCNY's False Claims Act Policy is aligned with the NYS False Claims Act and the Federal False Claims Act and is contained herein at _____.

Whistleblower or “Qui Tam” Provisions

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a “Qui Tam” or whistleblower provision. The False Claims Act prohibits discrimination by the agency against any employee for taking lawful actions under the False Claims Act.

AccessCNY’s Whistleblower policy is contained herein at _____.

New York Labor Law §740

An employer may not take any retaliatory personnel action against an employee, former employee or independent contractor if the person discloses information about the employer’s policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official. This includes actions that would discriminate against an employee or former employee or adversely impact a former employee’s current or future employment.

New York Labor Law §741

Under this law, a healthcare employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer’s policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care.

AccessCNY’s Non-Intimidation and Non-Retaliation Policy is attached hereto at _____.

NYS Medicaid Inspector General Act of 2006

This legislation (Chapter 442 §363-d) requires that medical assistance providers must have a corporate compliance program minimally applicable to billings to and payments from Medicaid. This Compliance Plan complies with NYS Medicaid Inspector General Act of 2006. Employees are to be encouraged to participate in the corporate compliance program with policies of both non-retaliation and non-intimidation for coming forward and disciplinary action for failing to do so.

Privacy & Confidentiality

Health Insurance Portability and Accountability Act of 1996

This legislation was intended to enhance the privacy and security of medical information while streamlining the health insurance industry. It applies to all medical providers, insurance companies, and all other entities with access to ‘protected health information.’ Medicaid has released the code sets to be used in New York State.

AccessCNY is committed to complying with all laws protecting the confidentiality of all individuals’ health information, including the Health Insurance Portability and Accountability Act (HIPAA) and HITECH Omnibus Rule, the Family Educational Rights and Privacy Act (FERPA), and the Stop Hacks and Improve Electronic Data Security Act (SHIELD). All employees, interns, volunteers, students, contractors, Business Associates and Board members are expected to adhere to the agency’s HIPAA and FERPA standards and procedures. The Associate Executive Director of Quality and Performance has been designated as the agency’s Privacy Officer. The Privacy Officer is responsible for monitoring disclosures of individual’s PHI (Protected Health Information) and ensuring that the agency’s HIPAA and FERPA procedures are followed. All individuals receiving services are given a copy of the agency’s Privacy Practices notice during the intake process. The agency’s Privacy Practices notice is also available on AccessCNY’s website and individuals may request a written copy from a supervisor or the Privacy Officer at any time.

Agency Confidentiality Policy is located herein at _____.

Exclusion Screening and Background Checks

AccessCNY will ensure compliance with all federal and state laws and regulations regarding exclusion screening. AccessCNY will not employ, contract with or conduct business with an individual or entity excluded from participation in state or federally sponsored health care programs such as Medicare and Medicaid. AccessCNY will conduct exclusion screening checks on all employees, consultants, vendors, Clinic prescribing doctors, and Board members initially and monthly to ensure compliance with all federal and state laws and regulations regarding exclusion screening.

The Exclusion Screening policy is contained herein at _____.

Self-Disclosure

AccessCNY is committed to ensuring that the agency's documentation, coding and billing practices comply with all federal and state laws and regulations. AccessCNY prohibits the intentional submission for reimbursement of any claim that is false, fraudulent or fictitious.

At times, AccessCNY may receive overpayment for services. **When the overpayment is considered to be a minor error, AccessCNY will return the overpayment through the process of adjusting or voiding the claim. When it is determined that the overpayment is more significant or systemic, AccessCNY will self-disclose the overpayment to the Office of the Medicaid Inspector General. Issues appropriate for disclosure may include, but are not limited to:

- Substantial routine errors
- Systemic errors
- Patterns of errors
- Potential violation of fraud and abuse laws

In accordance with the Affordable Care Act Section 6402 and New York Social Service Law §363-d, overpayments will be reported and returned by the later of:

- 60 days after the date on which the [overpayment was identified](#); or
- The date any corresponding cost report is due, if applicable.

Billing and Financial Reporting and Records

AccessCNY is committed to ensuring that the agency's documentation, coding and billing practices comply with all federal and state laws, regulations and guidelines. Furthermore, AccessCNY is committed to ensuring against the accidental submission of any claim that is false or inaccurate. All AccessCNY employees and contractors must prepare and submit documentation and billing that is honest and accurate. Billing will only be submitted for actual services provided, which also includes documentation containing all required elements to support the billing. AccessCNY has developed systems to ensure that AccessCNY only bills and receives payment for services provided and supported by the required documentation. Any employee or contractor who knowingly presents or causes to be presented, claims for payment or approval which are false, fraudulent, or fictitious, will be subject to disciplinary action up to termination and/or prosecution.

AccessCNY is committed to creating and maintaining complete and accurate financial records and reports. AccessCNY's financial statements and reports are prepared in accordance with applicable laws, with accepted accounting principles, and are subject to external audits by an independent auditing firm.

***AccessCNY will follow any updated guidance that OMIG releases regarding disclosures.*

Conflict of Interest

AccessCNY is committed to ensuring compliance with all required federal and state laws regarding making transparent and ethical business decisions. All employees and members of the Board will disclose real and potential conflicts of interest and refrain from participation in any decisions on matters that involve a real conflict of interest or the appearance of a conflict pursuant to the Agency Conflict of Interest Policy.

The Agency Conflict of Interest Policy is located herein at ____.

Corporate Compliance Committee Charter

Purpose: AccessCNY is committed to ethical and legal conduct while providing quality services. This Committee is responsible to collaborate and support the agency's Corporate Compliance Officer, to ensure the written policies and procedures and the required standards of conduct are current, accurate, and complete, and that the required compliance training topics are completed timely.

This Committee serves in an advisory capacity to the Board of Directors as a Committee of AccessCNY ("Agency") to coordinate with the Compliance Officer to ensure the Agency is conducting business in an ethical and responsible manner consistent with the Compliance Plan.

Responsibilities: The Compliance Committee will support the quality of services provided by exercising the following responsibilities:

1. Policies:
 - 1.1. reviewing all Corporate Compliance policies annually;
 - 1.2. drafting support, when requested, for new or revised policies related to compliance; and
 - 1.3. coordinating with the Corporate Compliance Officer to ensure that written policies and procedures, and standards of conduct are current, accurate and complete and that required trainings are timely completed.
2. Corporate Compliance Plan:
 - 2.1. ensuring that the Corporate Compliance Plan is designed and implemented to prevent, detect, and correct non-compliance with Medicaid program requirements, including fraud, waste, and abuse;
 - 2.2. reviewing and ensuring that the Agency has effective systems and processes in place to identify compliance program risks, overpayments, and other issues, and effective policies and procedures for correcting and reporting such issues;
 - 2.3. annually reviewing the Corporate Compliance Plan for completion, efficiency, and regulation compliance; and
 - 2.4. annually reviewing the compliance work plan.
3. Communication:
 - 3.1. coordinating with the Corporate Compliance Officer to ensure communication with and cooperation by affected individuals on compliance related issues, internal or external audits, or any other function or activity required;
 - 3.2. advocating for sufficient funding and resources to allow the Corporate Compliance Officer to fully perform his/her responsibilities; and
 - 3.3. collaborating with the Corporate Compliance Officer and reporting compliance issues that arise to the Executive Director and Board of Directors quarterly.
4. Miscellaneous:
 - 4.1. ensuring all levels of the organization, including the Board of Directors, support the compliance program;
 - 4.2. promoting adherence to AccessCNY's legal and ethical obligations;
 - 4.3. identifying and discussing remedial actions to avoid the repeat of incidents;
 - 4.4. discussing disciplinary standards and policies related to Compliance; and
 - 4.5. reviewing this Charter at a minimum, annually.

Accountability: The Compliance Committee shall report directly to and be accountable to the Chief Executive Officer and the Agency Board of Directors (through the Governance and Compliance Committee of the Board). The Compliance Committee will designate a member of the Committee to report to the Governance and Compliance Committee of the Board; the Compliance Committee designee will support reporting out to the full board by the Chair of the Governance and Compliance Committee, as needed.

Composition: Committee members will represent the range of AccessCNY staff and will include the Corporate Compliance Officer. The Chief Executive Officer, Chief Financial Officer, and Chief Operating Officer will attend quarterly Compliance Committee meetings. Staff Members serving on the Committee must be, at a minimum, at the senior manager level, and will come from a variety of Agency work-areas including, but not limited to operations, finance, audit, human resources, discharge planning, and legal. The Chief Executive Officer and Corporate Compliance Officer will designate Committee Members and review as necessary.

Slate: No fewer than six and no more than twelve members.

Term of Service: Annually the Committee will designate a Committee Chair, with no term limits for this role. The Committee Chair may be the Corporate Compliance Officer. Annually the Committee will designate a Secretary for note taking, with no term limits.

Non-Intimidation and Non-Retaliation Policy: Compliance is an expectation for all AccessCNY employees, volunteers, intern, students and Board members and AccessCNY encourages everyone to report issues of non-compliance and fraudulent activities without fear of retaliation or intimidation. AccessCNY has developed a Whistleblower Protection policy to prevent intimidation or retaliation for reports made in good faith. If an employee believes that they have experienced retaliation or negative consequences for making a report, filing a complaint, or participating in an investigation, they should contact the Human Resource Director and/or Compliance Officer for further investigation and action.

Meeting Schedule: The committee shall meet quarterly in collaboration with the Governance and Compliance Committee of the Board, or more frequently and independently, if needed.

Reviewed and Approved:

Standard:

AccessCNY will ensure that all Corporate Compliance complaints are addressed in a thorough and timely manner. Corporate Compliance complaints may include, but are not limited to the following:

- submitting or signing a report or billing for service not rendered
- falsifying or altering documentation
- omitting required documentation or failing to timely complete required documentation
- misappropriation of agency or participant funds
- illegal actions/activities

To the greatest extent possible, an investigation of Corporate Compliance issues will remain confidential, although the nature of some investigations makes certain disclosures unavoidable.

Procedure:

1. All complaints will be reported a supervisor or to the Associate Executive Director of Quality and Performance who is AccessCNY's Compliance Officer. The complaint can be reported verbally, in written form or through the Hot Line. AccessCNY's Compliance Hot Line number is **(315)410-3333**. Complaints may be reported anonymously. If a report is made by an employee to his/her supervisor, the supervisor receiving the complaint will report the complaint to the Compliance Officer.
2. The Compliance Officer will check the Hot Line number on a regular basis. The Compliance Officer will assign a designated person to receive complaints and check the Hot Line in the event that the Compliance Officer will be away from the office for more than two business days.
3. All the compliance complaints received will be documented with the action taken by the Compliance Officer on the compliance tracking sheet.
4. Upon receipt of a complaint, the Compliance Officer will determine whether the complaint warrants an investigation. A full investigation will be completed for all concerns of potential fraud. If the concern reported is clear that it's due to an unintentional error, the Compliance Officer will discuss appropriate follow-up with appropriate management staff and Human Resources as applicable. If the complaint does not warrant an investigation or is not related to Corporate Compliance, the Compliance Officer will forward the complaint to the appropriate management staff or Associate Executive Director of Human Resources. In the event that an investigator is not available, the Compliance Officer will conduct the investigation.
5. The Compliance Officer will notify the Executive Director, Chief Operating Officer, Associate Executive Director, Associate Director, General Counsel and the Program Director

of the involved program, Associate Executive Director of HR and Chief Financial Officer, if applicable.

6. In the event that it is determined that the employee involved should be suspended during the investigation, the Program Director or designee who oversees the employee will notify the employee.
7. The assigned investigator will initiate an investigation within two business days of receipt of the complaint.
8. The investigator will conduct interviews, review documentation and complete a written investigation report with findings, conclusion and recommendations.
9. The Compliance Officer will review the investigation report and forward the conclusion and recommendations to the Executive Director, the Associate Executive Director, General Counsel, the Associate Director and Program Director and Associate Executive Director of HR within ten business days of the complaint. If the investigator requires more time, the Corporate Compliance Officer will forward the status of the investigation to the Executive Director, Chief Operating Officer and Associate Executive Director of HR.
10. If disciplinary action is recommended, the investigator will schedule a meeting with the Compliance Officer, Associate Director, Program Director and a representative from Human Resources to discuss the findings and decide on disciplinary follow-up. If it is determined that the complaint was not reported in good faith, but was done with malice, follow-up will occur with the employee and disciplinary action may be taken against the person filing the initial complaint. General counsel will be consulted as deemed necessary.
11. The Program Director will forward results of actions taken by the agency regarding the complaint to the Compliance Officer within 30 days of receipt of the written report. Actions may include disciplinary action and/or termination of the employee involved, re-training, police involvement or self-disclosure to outside overseeing agencies.
12. If requested by the initiating employee, the Compliance Officer will respond to the person initiating the complaint (if disclosed) within 15 business days regarding the activities in process. (The details or findings of the investigation will not be disclosed to the complainant).
13. The Compliance Officer will ensure that all complaints and investigations are kept secure for 10 years. All documentation is stored electronically and securely on SharePoint.
14. The Compliance Officer will review the investigation and actions taken by the agency with the Compliance Committee on a quarterly basis. Any additional recommendations made by the Committee will be forwarded to the applicable management staff.
15. The Compliance Officer will submit a quarterly written report to the Governance and Compliance Committee of the Board regarding Corporate Compliance complaints and investigations. Agency trends will also be shared on an annual basis with the Board of Directors.

Compliance Training and Education Plan

June 2023

AccessCNY is committed to ensuring that all affected individuals receive the necessary training to ensure knowledge of AccessCNY's compliance requirements and expectations. This will be carried out by the following:

Employees

- All new employees receive compliance training within 30 days of date of hire. This includes program specific information on risk areas for those working in Medicaid funded programs. This training takes place during new hire orientation and is also available through the online learning management system. AccessCNY will ensure translators are available as needed. All employees will take a post test to ensure understanding of the information. Attendance for this is tracked within Litmos.
- Where applicable, employees receive additional training at Extended Orientation. This applies to employees that work in the DDABI department, specifically Individual Residential Alternatives, Day Habilitation, Community Habilitation and Supported Employment.
- New Managers and Directors receive one on one training from a member of the Quality Enhancement (QE) Department.
- Compliance elements are reviewed as part of the new employee orientation checklist. A copy of this checklist can be found in each employee's training file.
- All staff are required to complete annual training. This includes program specific information on risk areas for staff working in Medicaid funded programs. Staff will take a pre and post test to analyze the effectiveness of the training. Attendance for this is tracked within the online learning management system.
- An annual compliance update is provided to the Leadership Team annually.
- Members of the QE Team attend staff meetings and discuss compliance topics as needed.
- The Compliance Officer sends monthly emails to the Leadership Team and provides compliance topics for discussion with individual teams. All past emails can be accessed through SharePoint.
- New compliance requirements are shared with management of those program areas and reviewed during regular program compliance meetings.

Board of Directors

- All new members receive training within 30 days.
- Annual compliance training is provided by the Compliance Officer.

Compliance Officer

- The Compliance Officer will participate in a minimum of 10 additional hours of compliance training and education each calendar year. This will be tracked in their training file.

Other Affected Individuals

- All other affected individuals (as identified in the compliance plan) receive information on AccessCNY's compliance plan and policies at the start of any contract. This will include information on compliance issues, expectations and the compliance program operation. They are required to acknowledge receipt of this information and this will be tracked _____.

Standard:

AccessCNY supports and expects transparency in working relationships, which includes the disclosure of conflicts of interest. The disclosure of a conflict of interest allows the agency to determine if an employee or a member of the Board of Directors (BOD) is in a position to influence a decision that may result in personal gain for that employee or BOD, or for that employee's relative, as a result of agency business dealings.

A Conflict of Interest refers to any situation in which an employee's or BOD's personal interest might contradict the interest of the company they work for. An employee's financial or other personal situation may compromise or appear to compromise: (1) an employee's or BOD's business judgment, (2) delivery of services, or (3) an employee's or BOD's ability to do their job.

The possibility that a conflict of interest may occur can be addressed and resolved before any actual damage is done. Therefore, when an employee or BOD understands or suspects that they are in a situation where a conflict of interest or a potential conflict of interest exists, it is their responsibility to bring this matter to the attention of their direct supervisor and the agency's compliance officer for resolution. In a situation where an employee or BOD is unsure whether a conflict of interest exists, it is important that it is reported so that the decision can be made by their direct supervisor or the agency's compliance officer.

Self-Direction and Consumer Directed Personal Services (CDPS) Employees Only: The existing relationship between an employee and the participant they serve is expected and is not a conflict of interest unless identified through program specific regulations. Self-Direction and CDPS employees must report all other possible conflicts of interest that may arise outside of this relationship pursuant to this Policy.

Procedure:

Employees and the BOD will complete the attached Conflict of Interest Disclosure Statement upon hire, as well as any time they become aware of a situation that presents a conflict of interest or a potential conflict of interest. The disclosure statement must be completed immediately upon the employee or BOD discovering a conflict of interest or a potential conflict of interest. The employee or BOD will forward the completed disclosure statement to their direct supervisor and to the agency's compliance officer for review.

All conflicts will be resolved as ethically and as fairly as possible. The resolution of a conflict of interest will be documented on the Conflict of Interest Resolution Form. Both the disclosure statement

and the resolution form will be kept in a file on SharePoint that is managed by the Compliance Officer or designee.

It is an employee's or BOD's responsibility to recuse themselves from situations that may cause a conflict of interest. In cases where a conflict of interest or a potential conflict of interest is concealed, or when a solution cannot be found, disciplinary action may be taken up to, and including, termination.

See attachments:

AccessCNY Conflict of Interest Disclosure Statement AccessCNY Conflict of Interest Resolution Form



Standards of Conduct

Disciplinary Procedures, Board of Directors

June 2023

AccessCNY is committed to providing quality services and billing for services in a legal and ethical manner to ensure that the agency's reputation is protected, and the agency's mission is attained. AccessCNY has developed a Corporate Compliance plan in an effort to comply with applicable State and Federal laws. As a partner in conducting business, we expect all members of the Board of Directors will understand, support, and enforce AccessCNY's Compliance Plan and the policies contained therein in the original context and any revisions thereafter.

The purpose of an effective corporate compliance plan is to reduce waste and prevent fraud and abuse. Adhering to AccessCNY's corporate compliance plan is the responsibility of all affected individuals as defined by the Office of Medicaid Inspector General (OMIG) including, but not limited to all employees, the executive director, all senior administrators, managers, contractors, agents, subcontractors, independent contractors, the Board of Directors, and agency officers.

As a partner in service, the Members of the Board of Directors will review the Compliance Plan and all included policies during annual compliance training. Information can also be found at [website link](#) and members may contact the Compliance Officer with any questions or concerns at Compliance@accesscny.org or 315-410-3318. The Compliance Plan will be updated as required and the most recent version will remain available at the above-provided link. If the laws, regulations, or policies change, the Board of Directors will review and approve all changes to agency policies.

In the event a Member of the Board of Directors violates the Compliance Plan the Board of Directors will determine the consequence which may include removal from the Board of Directors.

Please refer the Compliance Plan and associated policies including the Compliance Committee Charter and the Board By-Laws for further guidance.



Standards of Conduct

350 Discipline Procedures

June 2023

AccessCNY management and departmental leaders support behaviors that foster professional, cooperative, and people centered focus to ensure that participants receive the highest quality of services. To reinforce high quality services to our participants, expectations are set to address employees' behavior for among other things are: (1) job performance; (2) time and attendance; and (3) conduct. Employees are responsible for meeting these expectations, and are additionally expected to be professional, cooperative, careful, and diligent at all times. These standards exist to help ensure our participants receive the highest-quality services possible.

This document is intended to provide employees with a better understanding of AccessCNY's expectations and the potential consequences for non-compliance. Non-compliance with AccessCNY's standards and expectations may result in disciplinary action, up to and including immediate dismissal.

Issuing Disciplinary Action:

When an employee fails to follow AccessCNY or departmental standards, or otherwise fails to meet expectations or dutifully perform her or his responsibilities, AccessCNY will take steps to correct the situation and prevent further occurrences.

This corrective action may vary depending on the relevant circumstances, including, but not limited to, the seriousness of the offense, the circumstances under which it occurred, prior performance issues or disciplinary problems, the particular responsibilities of the employee, length of employment, and overall work record with AccessCNY.

Corrective action can take any of the following forms (individually or, where appropriate, in combination with one another):

- Coaching & Counseling
- Written Warning(s)
- Unpaid Suspension(s)
- Dismissal

AccessCNY will generally endeavor to follow a "progressive" disciplinary model, but may not do so in all circumstances. Employment at AccessCNY is "at will." Although AccessCNY hopes that all employee relationships will be long-standing and mutually beneficial, either party is free to end the employment

relationship at any time. Accordingly, AccessCNY expressly reserves the right to immediately discharge an employee as disciplinary action, if deemed appropriate in its sole discretion.

The use of progressive discipline before dismissal is left to AccessCNY's discretion. By establishing these procedures for disciplinary actions and dismissals, AccessCNY does not waive or limit its right to discharge employees with or without notice or cause.

With respect to all disciplinary matters, AccessCNY also reserves the right to suspend employees, with or without pay, pending investigation or otherwise.

Reasons for Discipline:

The types of misconduct that can lead to disciplinary action include but are not limited to, the following:

- Poor attendance and punctuality
- Poor work performance
- Inappropriate conduct such as a violation of a published AccessCNY or departmental policy, rule, or regulation or violating a common-sense expectation
- Insubordination or misconduct
- Failure to participate in the compliance program in good faith
 - Failure to report compliance issue
 - Failure to assist or participate in compliance investigation
 - Failure to report suspected compliance problem
 - Participating in non-compliant behavior
 - Encouraging, directing, facilitating, or permitting non-compliant behavior

Examples of misconduct include but are not limited to:

- Any violation of the Agency's Ethical Conduct Policy
- Insubordination or failure to carry out reasonable requests made by the supervisor or other member of AccessCNY management
- Theft, attempted theft, or removing Agency, client, or co-worker property from the premises without proper authorization
- Willful misuse or destruction of Agency, client, or a co-worker's property
- Sleeping during work time
- Inappropriately abandoning the job or leaving work
- Any violation of the Agency's Drug and Alcohol Use policy, including the possession or consumption of unauthorized controlled substances, or alcoholic beverages, or being under the influence of unauthorized controlled substances or alcoholic beverages on Agency time or on Agency/client premises
- Gambling on Agency time or on Agency/client premises

- Sexual harassment, other harassment, discrimination and/or retaliation in violation of Agency policy
- Any violation of the Agency's workplace Violence Policy, including threatening, intimidating, or violent behavior
- Possession of a dangerous weapon on Agency/client premises
- Neglect, abuse or mistreatment of a participant
- Unprofessional or disrespectful conduct, such as profanity or yelling, including the use of vulgar, abusive, or obscene language, while on Agency/client premises or arising out of Agency business
- Falsification of Agency-related documents, including, but not limited to, records of time worked, payroll records, documentation of services rendered, expense reports, employment, applications, or any application for leave of absence
- Conviction of a felony or off-duty conduct that relates to the employee's fitness for employment, as required or to the extent permitted under applicable law
- Failure to abide by other Agency policies including but not limited to confidentiality, proprietary information, use of the Agency's electronic communications systems and conflict of interest
- Unauthorized use of Agency or client funds, vehicles, materials, or facilities regardless of intent
- Unauthorized removal of Agency or client property or materials including those that have been or are due to be discarded
- Indecent, illegal, or immoral behavior on client premises
- Failure to maintain a valid driver's license when required for the job
- Failure to report an incident related to compliance
- Other misconduct

If discipline is pertaining to time and attendance or performance concerns, incident will remain in employee's file for 1 year (from last occurrence). If discipline is pertaining to misconduct, incident will remain in employee's file permanently.

Discipline:

Following is a summary of different levels of discipline that may be issued, depending on the relevant facts and circumstances. AccessCNY reserves the right to immediately proceed to more serious disciplinary action, if deemed appropriate.

1. Verbal Counseling

- a. Normally, when a supervisor first identifies a discipline problem, the supervisor will privately counsel the employee and outline the steps necessary to correct the problem. This step is an informal documented conversation between the employee and the supervisor. The conversation should generally be issued within 7 working days of the occurrence or from the date when the supervisor learns of the occurrence, to the extent practicable. The supervisor

will generally advise the employee – and employees should note under this policy – that any further issue may result in further corrective action, up to and including dismissal.

- b. The supervisor will ordinarily summarize the counseling in writing, request that the employee sign the documentation and retain a copy in the employee's departmental file.

2. Written Warnings

- a. Written warnings should generally be issued within 7 working days of the occurrence or from the date when the supervisor learns of the occurrence, to the extent practicable. If additional time is needed to complete an investigation, the 7-day requirement may be extended with approval from Human Resources Department Director or Associate Executive Director.
- b. Written warnings must be recorded and generally include the following information:
 - i. The reason for the warning and related facts
 - ii. Reference to previous counseling about the problem (if relevant)
 - iii. The necessary steps to correct the problem
 - iv. The next disciplinary step to be taken if the problem is not corrected
- c. Employees will be provided the opportunity to comment on the written warning, and required to acknowledge receipt of the document.

3. Suspension

- a. AccessCNY may impose an unpaid suspension. In such an event, employees will be advised accordingly, and instructed that they are not permitted on Agency premises and cannot perform any work duties during the suspension period.
- b. AccessCNY also reserves that right to suspend an employee, with or without pay, in connection with its investigation of any disciplinary or other matters.
- c. Managers have the right to immediately suspend an employee if necessary, but afterwards should immediately notify the Associate Executive Director or Director of Human Resources.

4. Dismissal

- a. Certain types of issues, conduct, policy infractions, or behavioral problems, when taking into consideration the relevant facts and circumstance, are serious enough to warrant immediate discharge. Each such situation will be handled on a case-by-case basis.
- b. Examples of conduct justifying immediate dismissal include, but are not limited to the following:
 - i. Dishonesty, theft, vandalism, or other illegal activity
 - ii. Sleeping, appearing to sleep, or preparing to sleep on the job during work hours

- iii. Violating any policy or rule concerning alcohol or illegal or controlled substances, including being under the influence of alcohol or illegal or controlled substances when reporting to work, while on the job, when carrying out AccessCNY responsibilities, or on AccessCNY premises
- iv. Possessing or selling illegal or controlled substances while on the job, when carrying out AccessCNY responsibilities or on AccessCNY premises, on property where AccessCNY work is being performed, or at AccessCNY-sponsored activities
- v. Flagrant misconduct, performance issues, or insubordinate behavior
- vi. Falsification of time and attendance records or other AccessCNY records
- vii. Unauthorized use, possession or storage of firearms, dangerous weapons, explosives, lethal materials or other potentially dangerous items on AccessCNY premises, on property where AccessCNY, or at AccessCNY-sponsored activities, whether or not a federal or local license to possess the same has been issued
- viii. The impermissible (including, without limitation, under HIPAA) use of tape recorders, hidden cameras, or microphones, or other recording devices, to make surreptitious recordings of telephone calls, conversations, or other communications

This above list of examples is not all-inclusive. Aggravating factors, as well as other conduct considered sufficiently detrimental by AccessCNY or that otherwise conveys an employee is unsuitable for continuing employment, can result in immediate dismissal without prior discipline.

Payment During Disciplinary Suspensions

In accordance with the Fair Labor Standards Act (FLSA), an exempt employee may be suspended without pay in partial or full day increments for safety rule infractions of major significance or in one or more full day increments for violations of workplace conduct rules (i.e., violations of the Agency's policies relating to sexual harassment, discrimination, violence, and substance testing). Unpaid suspensions for exempt employees for any other reason are generally in full week increments only as required by the FLSA. Paid suspensions for exempt and non-exempt employees may be in partial day or partial week increments.

Open and candid communications with all employees is an important aspect of AccessCNY's on-going employee relations. When a rule, policy, or procedure is violated, the employee's supervisor and the Human Resources Department will review the specific nature of the violation with the employee. The employee's input is extremely important to ensure that all of the facts have been considered. After such a review, corrective action is discussed with the employee and the management involved.

Employees are given the opportunity to agree or disagree with the results and write a brief statement on the employee counseling memo, if desired. However, as a condition of employment, employees are required to sign the employee counseling memo to indicate that a discussion of the issue has taken place. Refusal to sign the employee counseling memo is a violation of Agency policy and may result in disciplinary action, up to and including termination. Employees receive a copy of any written employee counseling memo issued by the Agency.

Within the established period after the initial counseling meeting, the Human Resources Department and the employee's supervisor conduct a follow-up meeting with the employee to review the employee's progress. A written follow-up to the counseling memo is given to the employee. The employee must sign the follow-up memo issued by the Agency.



Standards of Conduct

Discipline Procedures Vendors and Contractors

June 2023

AccessCNY is committed to providing quality services and billing for services in a legal and ethical manner to ensure that the agency's reputation is protected, and the agency's mission is attained. AccessCNY has developed a Corporate Compliance plan in an effort to comply with applicable State and Federal laws. As a partner in conducting business, we expect all vendors and contractors and their staff will understand, support, and enforce AccessCNY's Compliance Plan and the policies contained therein in the original context and any revisions thereafter.

The purpose of an effective corporate compliance plan is to reduce waste and prevent fraud and abuse. Adhering to AccessCNY's corporate compliance plan is the responsibility of all affected individuals as defined by the Office of Medicaid Inspector General (OMIG) including, but not limited to all employees, the executive director, all senior administrators, managers, contractors, agents, subcontractors, independent contractors, the Board of Directors, and agency officers.

As a partner in service, we require Vendors and Contractors to annually review the Compliance Plan and all included policies at [website link](#) and contact our Compliance Officer with any questions or concerns at Compliance@accesscny.org or 315-410-3318. The Compliance Plan will be updated as required and the most recent version will remain available at the above-provided link. If the laws, regulations, or policies change, your acceptance of the same is automatically deemed revised unless otherwise provided in writing.

In the event a vendor or contractor violates the Compliance Plan and the obligations set therein, AccessCNY may opt to terminate the relationship and cease conducting business with the vendor and/or contractor acting in a manner that violates the Compliance Plan.

Please refer the Compliance Plan and associated policies.

Standard:

AccessCNY will ensure compliance with all federal and state laws and regulations regarding exclusion screening. AccessCNY will not employ, contract with or conduct business with an individual or entity excluded from participation in state or federally sponsored health care programs such as Medicare and Medicaid.

Procedure for Employees and Consultants:

1. AccessCNY currently contracts with an exclusion software to run exclusion screenings for the agency. Exclusion screenings are completed prior to hire and on a monthly basis. The software runs names through the required databases:
 - HHS Office of Inspector General
 - Excluded Parties List System
 - NY Office of Medicaid inspector General
2. The Human Resource department will enter each prospective employee/consultant name into the exclusion database prior to hiring an individual.
3. If a prospective employee or consultant's name shows up on any of the exclusion lists, AccessCNY will verify the information matches the prospective employee/consultant. Human Resources will notify the Quality Enhancement department to verify the findings. If the information is a match, the employee/consultant will be ineligible for hire and the Human Resource department will notify the prospective employee/consultant and the hiring manager.
4. Monthly, a member of Human Resources will receive an email from the exclusion database software with the results of the exclusion check. They will review the report and upload the results to SharePoint within 3 business days of receiving the email. If a current employee/consultant shows up on any of the exclusion lists during a monthly screening and the information confirms the employee/consultant's identification to be a match, Human Resources will notify the Quality Enhancement department to verify the findings. If verified, the Human Resources department and Program Supervisor will terminate the

employee/consultant and notify AccessCNY's Compliance Officer. The Compliance Officer will follow the Self-Disclosure standard as it relates to this compliance concern.

Procedure for Vendors/Contractors

1. All vendors and contractors' business names and business owners' names will be entered into the exclusion screening database by a member of the Finance Department or prior to accepting contractors or using the vendor for goods or services. Any and all staff seeking to make a purchase or contracting for services will check the vendor list on SharePoint for prior approval. If vendor is not on the list, staff must provide name of vendor and complete W9 form to a designee in the Finance Department to be run through the exclusion software prior to receiving approval.
2. If a prospective vendor/contractor shows up on any of the exclusion lists, a member of the Finance Department will verify the information matches vendor/contractor. The Finance Department will notify the Quality Enhancement department to verify the findings. If the information is a match, AccessCNY will be prohibited from conducting any business with the vendor/contractor.
3. Monthly, a member of the Finance Department will receive an email from the exclusion software with the results of the exclusion check. They will review the report and upload the results to SharePoint within 3 business days of receiving the email. If a current vendor/contractor shows up on any of the exclusion lists during a monthly screening and the information matches the vendor/contractor's identification, the Finance Department will notify the Quality Enhancement department to verify the findings. The Finance Department will remove the vendor/contractor from the approved vendor list and notify Senior Management in an email of the change. Members of Senior Management should then contact any programs that may be using the vendor to immediately stop and inform the Compliance Officer of vendor/contractor utilization. The Compliance Officer will follow the Self-Disclosure standard as it relates to this compliance concern. The approved vendor list will be updated in SharePoint by the designated Finance Department employee within 3 business days of any changes.

Procedure for Physicians Writing Scripts for Services

1. Prior to providing Clinical services at AccessCNY, the designated Clinic staff will forward the physician's name writing the script for services to a designee in the Finance Department to enter the name into the exclusion screening database.

2. If a physician's name shows up on any of the exclusion lists, AccessCNY will verify the information matches the physician writing the script for services. If the information is a match, the Finance designee will notify the Quality Enhancement department to verify the findings and will inform the clinic staff that AccessCNY will be prohibited from providing services to the individual until a script from a non-excluded physician is received.
3. Monthly, the Finance designee will receive an email from the exclusion software with the results of the exclusion check. The designee will review the report and upload the results to SharePoint within 3 business days of receiving the email. If a physician who wrote a script for an individual currently receiving Clinic Services at AccessCNY shows up on any of the exclusion lists during a monthly screening, the designee will notify the Quality Enhancement department to verify the findings. If verified the Clinic designated staff will contact the individual receiving services to suspend services. AccessCNY will be prohibited from providing and billing for services until the individual obtains a new script from a non-excluded physician. The designated Clinic staff will add the physician's name to an excluded list and notify AccessCNY's Compliance Officer. The Compliance Officer will follow the Self-Disclosure standard as it relates to this compliance concern.

Procedure for Board Members

1. Prior to election to AccessCNY's Board, the Executive Director or designee will forward the name(s) of potential Board members to the Recruitment Manager to enter names into the exclusion screening database.
2. If a Board member's name shows up on any of the exclusion lists, AccessCNY will verify the information. If the information is a match, the Recruitment Manager will notify the Quality Enhancement department to verify the findings and will inform the Executive Director that the Board member will not be eligible for Board membership. The Executive Director will share this information with the Governance and Compliance Committee of the Board.
3. Board members will be checked by the Compliance Officer in the exclusion database monthly. Results will be saved to SharePoint.

Standard:

AccessCNY and its employees and all affected individuals shall not make or submit any false or misleading entries on any claim forms. No employee or affected individual shall participate, direct, or assist another person to submit a false or misleading entry on claims or documentation of services that result in the submission of a false claim.

Overview of the Federal False Claims Act

The False Claims Act, 31 U.S.C. 3729 *et seq.*, is a federal law designed to prevent and detect fraud, waste and abuse in federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act, 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 of \$10,000 - \$50,000 for each false claim submitted.

- The definition of “knowingly” includes a person who:
- Has actual knowledge of falsity of information in the claim
- Acts in deliberate ignorance of the truth or falsity of the information in the claim
- Acts in reckless disregard of the truth or falsity of the information in the claim

Whistleblower or “Qui Tam” Provisions

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a “Qui Tam” or whistleblower provision.

The Government, or an individual citizen acting on behalf of the Government can bring actions under the False Claims Act. The individual taking action, “whistleblower” and has information regarding the false claims may file a lawsuit on behalf of the U.S.

Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15% - 30% of the amount recovered.

The False Claims Act provides provisions which prohibit discrimination by AccessCNY against any employee, former employee, contractor or agent for taking lawful actions.

Please refer to the Whistleblower Policy for more information.

New York State False Claims Act:

The State False Claims Act is very similar to the Federal False Claims Act. It also imposes fines and penalties on individuals and agencies that file false and fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The New York State False Claims Act also includes similar whistleblower provisions.

Identification of Compliance Risk Areas

June 2023

Standard:

AccessCNY will develop and implement a system to assess and minimize the risk of each program of the agency.

Procedure:

1. Each year the Corporate Compliance Officer will review and update the risk assessment survey according to regulation updates and trends.
2. At the end of each year, the Compliance Officer will forward the agency's risk assessment survey to each department's Program Director or designee for completion.
3. The completed risk assessments will be reviewed by the Compliance Officer and the results tallied by a number system.
4. The Compliance Officer will present the tallied results to the Compliance Committee and each program will be ranked low risk, moderate risk or high risk.
5. The results and recommendations from the Committee's review of the risk assessments will be included in the AccessCNY's annual compliance work plan.
6. Each high risk program will create a work plan to address their identified areas of risk. The Compliance Officer will work with each program to reduce the identified risk by reviewing the work plan status at program compliance meetings.
7. The Compliance Officer will review the status and progress of the agency annual work plan at the Compliance Committee meetings.
8. The Compliance Officer will review AccessCNY's Compliance work plan with the Board of Directors on an annual basis and as the need arises.

Internal Audits

June 2023

Standard:

AccessCNY will implement a system of internal audits to ensure that services are provided and billed in compliance with applicable laws and regulations.

Procedure:

1. The Director of Quality Enhancement or designee will determine how often each program will be audited annually based on the results of the annual risk assessment.
2. The Quality Enhancement department will develop audit tools for each department audit to ensure that the audit team uses consistent protocols during each audit.
3. The Quality Enhancement team will select a random sample on the day of the scheduled audit. Before reviewing any participant record, the Quality Enhancement team will sign the record access log if it is required by the department.
4. The Quality Enhancement team will provide feedback to the department receiving the audit throughout the audit.
5. Upon completion of the audit, the Director of Quality Enhancement or designee will prepare an audit summary including positive and negative findings. Within one month of the completion of the audit, the audit summary will be forwarded to the Associate Executive Director, Program Director, Program Manager and Chief Financial Officer (if appropriate). The Program Director and Program Manager will also receive a copy of each individual audit tool completed during the audit.
6. The Program Director will document corrections to issues and any monitoring system on the response form. Corrections may include voiding claims that were billed with errors or do not have required supporting documentation. The response form will be forwarded to the Associate Executive Director of Quality Enhancement within 30 days of receipt of the audit summary .
7. The written audit summary , completed audit tools and response form will be kept on file with the Associate Executive Director of Quality Enhancement.

8. Each department will also develop an additional auditing process within the department which may include peer audits. Trends from these audits will be forwarded to the Associate Executive Director of Quality Enhancement.
9. The Associate Executive Director of Quality Enhancement will review audit trends with the Quality Assurance Committee on a quarterly basis.
10. The Associate Executive Director of Quality Enhancement will submit an annual report to the Board of Directors on audit trends as well as department improvements.

Standard:

AccessCNY is committed to ensuring that the agency's documentation, coding and billing practices comply with all federal and state laws and regulations. AccessCNY will ensure that a sample of required documentation supporting billing is audited monthly prior to submission to Medicaid.

Procedure:

1. The Quality Enhancement (QE) Department will choose and identified number of files from each Medicaid funded program monthly, rotating through their roster. Participants new to services will be prioritized.
2. The QE Auditors will send an email listing the names of the participant's files that were chosen, to the Program Director between the 1st and 3rd of the month.
3. Program Directors or designees will ensure Monthly and Daily documentation is accurate and completed by the 10th of each month. Directors will send signed billing sheets to the auditor by the 10th of the month or after all documentation is complete. The Consumer Directed Personal Services Managers will send the requested documentation bi-weekly with the pay schedule.
4. The QE Auditors will review the files using designated audit tools that comply with current OMIG, OPWDD, OMH and DOH billing standards. The files will be reviewed by the 10th of the month, or up until all required documentation is completed.
5. Billing related issues identified will be compiled into an Audit Summary. The QE Auditor will email the summary to the appropriate Program Director between the 10th and the 12th of each month. If no billing related issues are found, a notification letter will be sent in its place.
6. Any immediate billing issues identified will be communicated to the Program Manager immediately and must be corrected within 2 business days.
7. The Program Director and Managers are responsible for correcting issues identified on the audit summary within 10 days of receiving it. The Program Director will then email the completed audit summary back to the QE Auditor. If billing should be retracted or not submitted due to compliance issues, the Program Director will notify the Billing Manager of the Finance department of those changes by the 20th of the month. **Any compliance issues discovered will be addressed using the agency's progressive disciplinary process.*
8. The QE Compliance Specialist will email the names of the files chosen to the Billing Manager in the Finance Department by the end of the month.

9. The Billing Manager will email the billing sheets for the designated participant's files to the QE Compliance Specialist each month. The QE Compliance Specialist will save the billing sheets in the appropriate Audit folder labeled Financial Billing Sheet.
10. QE Auditors will compare the billing sheets to the daily notes, if no discrepancies are found, Finance will submit the monthly billing to Medicaid. If discrepancies are found, Finance will be notified immediately by the QE auditor and billing will be held until corrections can be made.
11. When appropriate, a compliance investigation will be initiated.
12. Results from these audits will be shared with the Compliance Committee on a quarterly basis. Results are also shared with each program area during their regular compliance meetings.

Non-Retaliation and Non-Intimidation Policy

June 2023

PURPOSE

The purpose of this Policy is to ensure that employees, Board of Directors (“Board”) members, and contractors of AccessCNY are encouraged to report concerns about the occurrence of serious illegal, fraudulent or unethical actions within the organization (“Compliance Issues”). “Compliance Issues” are actual or suspected fraud, waste, abuse, other wrongful or unethical conduct, or violations of laws, regulations, administrative guidance, or AccessCNY’s Compliance Plan¹ and policies. Employees, Board members, and contractors are protected from intimidation and retaliation for good faith participation in AccessCNY’s Compliance Program, including but not limited to reporting Compliance Issues, investigating issues, conducting self-evaluations, audits, and remedial actions, and reporting to appropriate officials.

APPLICABILITY

This Policy applies to all AccessCNY employees, Board members, and contractors.²

POLICY

1. AccessCNY prohibits any act of retribution, discrimination, harassment, retaliation, or intimidation against any employee, Board member, or contractor who, in good faith, participates in AccessCNY’s Compliance Program activities, including, but not limited to:
 - a. Reporting and responding to potential Compliance Issues to appropriate personnel;
 - b. Participating in investigation of, and investigating, potential Compliance Issues;
 - c. Conducting or responding to audits, investigations, reviews, or compliance self-evaluations;
 - d. Drafting, implementing, or monitoring remedial actions;
 - e. Reporting compliance-related concerns to any government entity;
 - f. Attending or performing compliance-related training;
 - g. Reporting instances of intimidation or retaliation; or
 - h. Otherwise assisting in any activity or proceeding regarding any Compliance Issue.

¹ AccessCNY’s Corporate Compliance Plan (“Compliance Plan”) is the document that provides an overview of AccessCNY’s Corporate Compliance Program (“Compliance Program”). The Program is AccessCNY’s implementation of the Compliance Plan and includes all of AccessCNY’s compliance activities.

² “Employees, contractors, and Board members” includes AccessCNY’s employees, Chief Executive Officer (“CEO”), senior administrators, managers, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by AccessCNY’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation-affected by AccessCNY’s Compliance Program, as set forth in its Compliance Plan.

2. A good faith report means one where the individual believes the information reported to be true and where the report is not made for the purpose of harming the standing or reputation of AccessCNY, or of another employee, Board member, or contractor.
3. The protections of this Policy do **not** apply to:
 - a. Intentional untruthful allegations of wrongdoing;
 - b. Allegations whose nature or frequency indicate an intent to harass or embarrass AccessCNY or any employees, Board members, or contractors; or
 - c. Instances where individuals report their own lapses or complicity in unacceptable conduct. In such instances, the act of reporting will not be subject to sanctions, but the underlying conduct may be subject to disciplinary action.

PROCEDURE

1. Reporting Mechanisms.

Employees, Board members, and contractors have a duty to report actions that they believe in good faith to be an actual or suspected Compliance Issue. See [Self Disclosures Policy](#). Employees, Board members, and contractors have a variety of reporting options; however, they are encouraged to take advantage of internal reporting mechanisms. These include reports to the Corporate Compliance Officer or Compliance Committee member, AccessCNY's [Compliance Hotline](#), or in the case of an employee, reports to the employee's supervisor or any supervisor.

2. Reporting to the Organization and Government.

While AccessCNY requires employees, Board members, and contractors to report Compliance Issues directly to AccessCNY, certain laws provide that individuals may also bring their concerns directly to the government. Any perceived retaliation or intimidation should be reported to the Compliance Officer immediately.

3. Confidentiality.

Anyone who investigates a Compliance Issue shall maintain the confidentiality of the individual who made the report if the individual has requested confidentiality or reported through a confidential reporting mechanism, unless the matter is subject to a disciplinary proceeding, referred to or under investigation by the New York State Attorney General's Medicaid Fraud Control Unit ("MFCU"), the New York State Office of the Medicaid Inspector General ("OMIG"), or law enforcement, the disclosure is required during a legal proceeding, or when otherwise required by law or contract.

4. Statutory Protections.

In addition to the protections afforded to employees, Board members, and contractors under this Policy, the following New York State laws also protect employees from retaliatory action for good faith reporting.

a. New York State Labor Law, Section 740.

An employer may not take any retaliatory action against an employee if the employee discloses, or threatens to disclose, information about the employer's policies, practices, or activities to a regulatory, law enforcement, or other similar AccessCNY or public official.

Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety, or which constitutes health care fraud under Penal Law § 177³ or Social Services Law § 145-b.⁴ The employee's disclosure

³ New York State Penal Law § 177 criminalizes knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions.

⁴ New York State Social Services Law § 145-b criminalizes submission of false statements or deliberate concealment

is protected only if the employee first raised the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. Employees are also protected from retaliatory action if the employee objects to, or refuses to participate in, any activity that is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law § 177 or Social Services Law § 145-b.

If an employer takes retaliatory action against the employee, the employee may sue in State court for reinstatement to the same, or an equivalent position, any back wages and benefits, and attorneys' fees. If the employer is a health care provider and the court finds that the employer's retaliatory action was in bad faith, the court may impose a civil penalty of \$10,000 on the employer.

b. New York State Labor Law, Section 741.

A health care employer may not take any retaliatory action against an employee if the employee discloses, or threatens to disclose, certain information about the employer's policies, practices, or activities to a regulatory, law enforcement, or other similar AccessCNY or public official, to a news media outlet, or to a social media forum available to the public at large.

Protected disclosures are those that the employee, in good faith, believes constitute improper quality of patient care or improper quality of workplace safety. The employee's disclosure is protected only if the employee first raised the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or a patient, and the employee has a good faith belief that reporting to a supervisor would not result in corrective action. Employees are also protected from retaliatory action if the employee objects to, or refuses to participate in, any activity, policy, or practice of the employer that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

If an employer takes retaliatory action against the employee, the employee may sue in State court for reinstatement to the same, or an equivalent position, any back wages and benefits, and attorneys' fees. If the employer is a health care provider and the court finds that the employer's retaliatory action was in bad faith, the court may impose a civil penalty of \$10,000 on the employer.

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of material information in order to obtain public assistance, including Medicaid.

Standard:

AccessCNY is committed to ensuring all state and federal regulations are adhered to and participants receive quality care. In order to accomplish this, standards are implemented to provide guidance for decision-making and to streamline internal processes.

Procedure:

- All policies will be drafted using the AccessCNY policy template.
- All new and revised policies will be shared with the appropriate people within 30 days. This should be documented in some way (staff meeting minutes, attestation, email read receipt, etc.)
- Each department has identified priority policies that are reviewed with all staff during orientation.
- Policies will reviewed as needed unless otherwise specified.

For Department Specific Standards:

- All policy drafts and revisions must be sent to the Associate Executive Director (AED) of the appropriate department for initial review.
- For all program policies (DDABI, MH, Clinic, CDPS), after the AED approves, the draft should be sent to the Chief Operating Officer for final approval.
- The standard will be saved to ADP for Human Resources related standards and SharePoint for all other standards in a PDF format.

For Agency Standards:

- All policy drafts and revisions must be reviewed by the policy committee consisting of the Associate Executive Director (AED) of Quality & Performance, Chief Operating Officer, AED of Human Resources and a Program Staff Representative for initial review.
- The draft will then be shared with the Executive Team for final approval which includes general counsel.
- The standard will be saved to ADP for Human Resources related standards and SharePoint for all other standards in a PDF format.

For Compliance Standards:

- All policy drafts and revisions must be sent to the Associate Executive Director (AED) of Quality & Performance, Chief Operating Officer, general counsel, and the Executive Director for initial review
- The draft will then be shared with the Compliance Committee for final approval.
- The finalized standard will be saved to SharePoint in a PDF format and on the website.
- Affected individuals will be informed of the updated/revised policy and instructed to share with their staff within 30 days.

- Compliance standards will be reviewed annually to ensure they are effective in meeting the goals of the compliance plan.

Standard:

AccessCNY is committed to ensuring that necessary records and documents are adequately protected, maintained and destroyed in a manner that complies with applicable laws, regulations and professional practice.

Procedure:

1. All AccessCNY departments will develop a written procedure detailing records maintained in the participant's current record and on site and the timeframe for when records are moved to the archive storage.
2. All required documents that are maintained on site as well as off site will be stored in a protected and secured manner.
3. All electronic records will be backed up overnight and stored off site.
4. Each participant record should contain documents of the past 12 current months. Eligibility documentation should be kept in the participant record until discharge. Other documentation that the program deems necessary should also be kept in the participant record (i.e.: one-time evaluations).
5. The previous year of documentation should be kept on site (i.e.: 2016 in record; 2015 on site in a file cabinet). Any earlier documentation should be boxed and stored in the agency's archive room at the Court St campus or a designated space.
6. The program's Administrative Assistants will complete a documentation checklist form as the record is archived. This should be done at the beginning of each year for the previous year. The Program Director will be notified of any missing documentation. If documentation cannot be located and is required for billing, the Program Director will ensure that the billing is accurate (not billed or void the claim) and the Quality Enhancement Department will be notified. A copy of the documentation checklist will be kept with the archived documentation. If a person is discharged or deceased, the date will be documented on the documentation checklist.
7. The Program Administrative Assistant or designated employee will be responsible for completing the archive log for each box that is stored at the Court St archive room or a designated space (see attached form).
8. When preparing a box for archive, only a standard (letter/legal size) Banker box will be used. Each box should have only one year in it. For small programs a box could have two years so that the box is full but needs to be clearly labeled. Archiving by year and not by participant allows the entire box to be shredded at one time. Records must be removed from binders and hanging files.

It is recommended that each participant's archived records be filed in the archive box in a folder labeled with the participant's name. The box must have a top that fits securely.

9. The outside of each box should be labeled with marker; do not use sticky labels or taped paper labels as these fall off after time. The box should be labeled on each side. The department box number (is: DCLC #1), the contents of the box (i.e.: 2014 DCLC records A-G), and destroy date should be clearly written on each side of the box. If the box contains numerous participants' documentation, a copy of the names of records could be kept on the inside of the box as well.
10. **Destroy Date: Most waiver services can be destroyed after 10 years. This includes records stored electronically outside of an electronic health record (L:drive, SharePoint, etc.).** Some services' documentation must be kept longer such as children's services. See program specific record retention standard for timeframes.
11. Once a year between Jan-Feb the designated program staff will contact the Facilities Department to schedule a time to take the archive records to the archive room at Court St or the designated space. The Program staff will be responsible to accompany the Facilities staff to the archive room to direct Facilities staff on what records to pull from the shelf at the **same** time the new records are put on the shelf. If the Program staff wants the boxes placed in a certain order than they should provide direction to the Facilities' staff at the time boxes are being placed.
12. Each department has shelves that are clearly labeled for their department records in the archive room at Court St. Boxes of records should only be placed on the department's designated shelves. If more space is needed, the Associate Executive Director of Quality & Performance should be notified.
13. The Program staff bringing records over to Court St. is responsible for obtaining and signing out the archive building key which is kept in the facilities building and returning the key immediately when finished. The Program staff is responsible for ensuring that all doors in the archive room are locked when leaving.
14. **Records that are due to be shredded will be placed in a separate designated area until the shredding company is contacted. The Program Administrative staff is responsible to document records shredded and month/year they were shredded. At the same time, any files stored electronically that are outside of an electronic health record should be permanently deleted according the program's retention policy.**
15. Once a year, the Facilities Director or designee will schedule the shredding company to shred designated records. The Facilities Director or designee will witness the completion of the shredding process and obtain a receipt. The Facilities Director or designee will send out an email to notify departments when the shredding process has been completed.
16. In the event that a record needs to be obtained during the year, the Program staff will obtain the archive key and obtain the documentation required. If assistance is needed in moving boxes, the Program staff is responsible to contact the Facilities Department to arrange a time for assistance. The Program staff is responsible to return the box to the appropriate shelf in the archive room.

There are ladders in the archive building to assist. No boxes are to be stored on the floor at any time. If boxes are found left on the floor, the department staff's supervisor will be contacted to address this.

17. In the event of a governmental audit, investigation, or pending litigation, record destruction may be suspended at the direction of the Associate Executive Director of Quality Enhancement, Executive Director or legal counsel. In addition, the Associate Executive Director of Quality Enhancement, Executive Director and legal counsel should be informed of any situation that might give rise to legal action as soon as the situation becomes apparent.

Records Damaged or Destroyed as a result of natural or manmade disaster:

Whenever records are destroyed in whole or part by fire or flood or as a result of any natural or manmade disaster, the Program Director responsible for the custody of the records damaged or destroyed shall:

1. Notify the Executive Director and Associate Executive Director of Quality & Performance as soon as possible as to the nature, type and quantity of the records damaged or destroyed and the circumstances surrounding their damage and destruction.
2. Take immediate steps to protect the damaged records from further deterioration in accordance with technical advice furnished by the State Archives and Records Administration.
3. Initiate action, when appropriate and in accordance with technical advice from the State Archives and Records Administration to retrieve, resemble and reconstruct the information contained in the damaged or destroyed records.

The Associate Executive Director of Quality & Performance, upon notification of damage or destruction of records by fire, flood or as the result of any natural or manmade disaster or human error, shall notify legal counsel of such damage or destruction.

Within 60 days after the fire, flood or natural or manmade disaster causing damage or destruction to records, the Program Director shall furnish the Associate Executive Director of Quality & Performance with information about the nature, type and quantity of records no longer available for use; and the types of information contained in those records. All information will be recorded on the Archive Record log.

Standard:

AccessCNY is committed to ensuring that the agency's documentation, coding and billing practices comply with all federal and state laws and regulations. AccessCNY prohibits the intentional submission for reimbursement of any claim that is false, fraudulent or fictitious.

At times, AccessCNY may receive an overpayment for services. *When the overpayment is considered a minor error, AccessCNY will return the overpayment through the process of adjusting or voiding the claim. When it is determined that the overpayment is more significant, AccessCNY will self-disclose the overpayment to the Office of the Medicaid Inspector General. Issues appropriate for disclosure may include, but are not limited to:

- Substantial routine errors
- Systemic errors
- Patterns of errors
- Potential violation of fraud and abuse laws

**AccessCNY will follow any updated guidance OMIG releases specific to disclosure.*

Procedure:

1. Each department will develop a billing procedure which will include a process to ensure that all required documentation is present prior to billing for services. The supervisor should ensure that the Finance department does not submit billing claims without verification that the required documentation is present.
2. The Finance department will keep a record of billing claims that they have discovered or have been directed to adjust or void after the claim has been billed. These will be reported to the compliance officer via approved form.
3. The Compliance Officer will review all identified overpayments with the Compliance Committee.
4. The Quality Enhancement department will conduct a random sample of billing claims for each Medicaid program as part of the monthly pre-billing audits. If any billing concerns or discrepancies are discovered, this information will be documented in the audit report and the department will need to correct the discrepancies prior to billing submission.
Please refer to Medicaid pre-billing audit standard.

5. Whenever an error becomes significant or fraud is substantiated through the investigation process, the Compliance Officer will notify the Executive Director and general counsel to determine whether AccessCNY's attorney should be consulted.
6. The Compliance Officer will submit a quarterly report to the Governance and Compliance Committee of the Board regarding billing issues and self-disclosures. This will be a written report unless otherwise requested. The Compliance Officer will meet with the Board of Directions annually in-person.

Standard:

AccessCNY employees and affected individuals will maintain the highest standards of ethical conduct and compliance with all applicable Federal and State laws and regulations as well as AccessCNY's Guiding Principles located in the HR Policy 104.

Procedure:

- AccessCNY employees and affected individuals will adhere to the agency's guiding principles as provided in HR Policy 104.
- AccessCNY employees and affected individuals will provide quality care in the most appropriate setting that is necessary, verifiable and respects the rights and dignity of the individual.
- AccessCNY employees and affected individuals will comply with all applicable laws, regulations, standards and requirements.
- AccessCNY employees and affected individuals will not pursue any business opportunity that requires engaging in unethical or illegal activity.
- AccessCNY employees and affected individuals will maintain accurate and complete records of all services provided with proper documentation as required by regulatory agencies.
- AccessCNY employees and affected individuals will submit claims and billing statements in a timely manner that accurately reflect rendered services. AccessCNY employees and affected individuals will not submit false, fraudulent or fictitious claims.
- AccessCNY will provide a mechanism for anyone to report compliance concerns and a process to investigate issues. AccessCNY employees and affected individuals are expected to participate in an initial and annual Corporate Compliance training. AccessCNY employees and affected individuals are expected to report any unethical, illegal or fraudulent incidents to the Corporate Compliance Officer in a timely manner without fear of reprisal in accordance with the agency's Whistleblower policy.
- AccessCNY will ensure compliance with regulations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). AccessCNY shall maintain the highest degree of confidentiality regarding participants, personnel, and business information consistent with the law.

- AccessCNY will only employ persons with proper credentials, experience and expertise.
- AccessCNY values diversity and will not discriminate in any matter based on ethnic background, disability, national origin, sex, age, marital status, sexual orientation or any other protected category.
- AccessCNY employees and affected individuals should avoid any activity that conflicts with the interests of the agency.
- In accordance with the Anti-kickback Statute:
 - a) AccessCNY employees and affected individuals will not accept or provide benefits that could be seen as creating conflict between their personal interests and the agency's legitimate business interests. This includes accepting expensive meals, gifts, refreshments or entertainment.
 - b) Any contributions or donations will be obtained without coercion, force or expectation of compensation in return.
 - c) AccessCNY employees or affected individuals will not pay employees, physicians, or other health care professionals, directly or indirectly, in cash or by any other means, for referral of patients. Every payment to a referral source must also be supported by proper documentation.
- AccessCNY employees and affected individuals are responsible and accountable for proper expenditure of the agency's funds and for the proper use of agency property.
- Any improper financial gain to the employee through misconduct involving misuse of the agency's or participants' funds or property is prohibited.
- AccessCNY shall prepare and maintain accurate and complete cost reports, financial records and statements regarding the agency's assets, liabilities, revenue and expenditures, according to generally accepted accounting principles.
- AccessCNY employees who violate the agency's Code of Ethical Conduct may receive disciplinary action, up to and including termination.

Standard:

AccessCNY will comply fully with any lawful subpoena or search warrant.

AccessCNY employees will remain courteous and professional when dealing with investigators or agents delivering a subpoena or executing a search warrant.

Procedure:

Subpoena

1. If a subpoena is received, either in person or via the mail, it must be immediately provided to In-House Counsel, the Executive Director, and the Associate Executive Director of Quality & Performance.
2. If delivered in person, the recipient shall obtain further information (e.g., the name, title, and telephone number of the serving agent/investigator and information provided by the agent/investigator).
3. Employees shall not volunteer information to an agent/investigator or submit to any form of questioning or interviewing without direction from legal counsel.
4. The Executive Director will identify the individual at the facility who is most qualified and available to assist legal counsel in responding to the subpoena.

Subpoena (Employee Related)

1. When a subpoena is received for Personnel File Information either in person or via mail, the Associate Executive Director of Human Resources shall be notified first. In the absence of the Associate Executive Director of Human Resources, the Assistant Director of Human Resources shall be notified. If a subpoena is received via mail, it shall be reviewed by the Associate Executive Director of Human Resources or Assistant Director of Human Services, in the absence of the Associate Executive Director of Human Resources, before the subpoenaed information is provided.
2. If delivered in person, the recipient shall obtain further information (e.g., the name, title and telephone number of the serving agent/investigator and information provided by the agent/investigator).

3. The Associate Executive Director of Human Resources or Assistant Director of Human Resources shall not volunteer information to the agent/investigator regarding the subpoena or submit to any form of questioning or interviewing without direction from legal counsel.
4. A processing check for \$15.00 is sometimes received with the subpoena. This check shall be forwarded to the receptionist who processes mail to be logged into the check register and forwarded to the Finance Department. The check will not be deposited until the response to the subpoena has been provided to the requesting entity.
5. The Associate Executive Director of Human Resources shall notify the Chief Financial Officer, Executive Director, and In House Counsel when a subpoena is received.

Search Warrant

1. If a federal or state law enforcement agency arrives at AccessCNY or any site operated by AccessCNY with a search warrant, the employee greeting the agent shall ask for identification and immediately contact the Executive Director or the Associate Executive Director of Quality Enhancement, in the absence of the Executive Director.
2. The Executive Director or Associate Executive Director of Quality & Performance and In House Counsel, and if necessary, shall contact outside legal counsel and follow legal counsel's direction.
3. Before the agent executes the search warrant, the Executive Director or Associate Executive Director of Quality & Performance shall view and photocopy the search warrant document. Carefully examine the search warrant (with legal counsel, if possible) to determine the following:
 - Determine the specific areas or locations it covers;
 - Ensure that it is being executed during the hours indicated on the document (most warrants should limit the hours they can be executed, e.g. "daylight hours");
 - Ensure that it has not expired (all warrants have an expiration date);
 - Ensure that it is signed by a Judge (all warrants should be signed by a Judge).
4. Politely object if any overt flaw in the warrant is apparent or if the agents are searching for anything you deem to be outside the scope of the warrant. Do not interfere should agents proceed and search. Note the fact for legal counsel to support a future protest.
5. The Executive Director, Associate Executive Director of Quality & Performance, or In House Counsel shall request an "inventory list" of the documents and items seized by the agents. A separate record of the areas searched, and items seized shall be maintained.

6. Other than providing information to direct the agents to information requested, AccessCNY employees shall not submit to any form of questioning or interviewing without the direction of legal counsel.

7. The Executive Director or Associate Executive Director of Quality & Performance and/or In House Counsel will go to the site as soon as possible and remain present while the agents are conducting the search. However, program staff are not to prevent the search from happening prior to their arrival.

Standard:

AccessCNY is committed to appropriately responding and not interfering with any lawful audit, inquiries or investigations. AccessCNY employees shall respond and cooperate with official requests for information by a government investigator or auditor.

Procedure:

1. Announcement of an impending visit by any government investigator or auditor related to **billing** should be immediately reported to the Executive Director, General Counsel and Associate Executive Director of Quality & Performance. This would include any visits by the Office of Medicaid Inspector General (OMIG) and the Office of Inspector General (OIG) and may include the Office of People With Developmental Disabilities (OPWDD), Office of Mental Health (OMH) and the Department of Health (DOH).
2. If there is an unannounced visit by a government investigator, auditor or other representative at any site operated by AccessCNY, the employee greeting the investigator or auditor should treat him or her with respect and courtesy. The employee shall request identification and the reason for the visit.
3. The employee shall contact the Program Supervisor immediately and inform the Program Supervisor of the investigator/auditor's name, agency and purpose of the visit. The investigator/auditor shall be asked to wait in an unused office or location where business is not conducted until a management staff arrives.
4. The Program Supervisor shall immediately contact the Program Director, Executive Director, Chief Operating Officer, Associate Executive Director of the Program, Associate Director, Associate Executive Director of Quality & Performance and Chief Financial Officer (if applicable).
5. The Executive Director shall appoint someone to be the primary contact person with the investigator/auditor. In most situations, the Associate Executive Director of Quality & Performance shall be appointed the primary contact person.
6. The primary contact person shall meet directly with the investigator/auditor and document the information requested. The primary contact person shall obtain information and documents requested by the investigator/auditor. No documentation

should be given to the investigator/auditor until the appointed primary contact person has met with the investigator/auditor. AccessCNY's legal counsel should be consulted if there are any questions before information and documentation is given to the investigator/auditor.

ACCESSCNY, a New York not-for-profit Agency (the “Agency”), requires its directors, officers, employees, key persons, contractors and volunteers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities within and on behalf of the Agency. As representatives and employees of the Agency, you must comply with all applicable laws and regulations and act with honesty and integrity in fulfilling your responsibilities.

The purpose of this Whistleblower Policy (“Policy”) is to ensure that the Agency has a governance and accountability structure that supports its mission, to encourage and enable directors, officers, employees, key persons, contractors and volunteers of the Agency to raise serious concerns about the occurrence of illegal, fraudulent or unethical actions within the Agency, and to protect those individual who report from retaliation.

Notwithstanding anything contained in this Policy, this Policy is not an employment contract and does not modify the employment relationship, if any, between the Agency and any of its directors, officers, employees, key persons, contractors or volunteers, nor does it change the at-will status of any employee of the Agency. Nothing contained in this Policy provides any director, officer, employee, key person, contractor or volunteer of the Agency with any additional rights or causes of action not otherwise available under applicable law.

It is intended that this Policy complies with the provisions of Section 715-B of the New York State Not-for-Profit Agency Law, as added by the Non-Profit Revitalization Act of 2013, as amended, and shall be interpreted and construed accordingly. This Policy applies to any matter which is related to the Agency’s business and does not relate to the private acts of an individual not connected to the business of the Agency. The rights and protections set forth in this Policy are in addition to, and not in abrogation of, the protections provided by Sections 740 and 741 of the New York State Labor Law, Section 191 of the New York State Finance Law or any applicable Federal law, including but not limited to the False Claims Act (31 USC § 3730(h)).

ARTICLE I REPORTING RESPONSIBILITY

1.1 Reporting Responsibility. All directors, officers, employees, key persons and volunteers of the Agency have a responsibility to report any action or suspected action taken by the Agency itself, by its leadership or by others on the Agency’s behalf, that is illegal, fraudulent, unethical or violates any adopted policy of the Agency (“Violations”).

1.2 Reporting in Good Faith. Anyone reporting a Violation must act in good faith, without malice to the Agency or any individual and have reasonable grounds for believing that the information shared in the report indicates that a Violation has occurred. A person who makes a

report does not have to prove that a Violation has occurred. However, any report which the reporter has made maliciously or any report which the reporter has good reason to believe is false will be viewed as a serious disciplinary offense.

ARTICLE II NO RETALIATION

2.1 No Retaliation. No person who in good faith reports a Violation or who in good faith cooperates in the investigation of a Violation shall suffer intimidation, harassment, discrimination or other retaliation or, in the case of employees, any adverse employment consequence. Any individual within the Agency who retaliates against another individual who has reported a Violation in good faith or who, in good faith, has cooperated in the investigation of a Violation shall be subject to discipline, including, without limitation, termination of employment or volunteer status.

2.2 Reporting of Retaliation. If you believe that an individual who has made a good faith report of a Violation or who has in good faith cooperated in the investigation of a Violation is suffering intimidation, harassment, discrimination or other retaliation or, in the case of employees, adverse employment consequence, you should make a report to the Corporate Compliance Officer. *Please refer to the Non-Intimidation and Retaliation Policy.*

ARTICLE III PROCEDURES FOR REPORTING VIOLATIONS

3.1 Reporting Procedure. All directors, officers, employees and volunteers should address their concerns relating to a Violation to any person within the Agency who can properly address those concerns. In most cases, the direct supervisor of an employee or volunteer is the person best suited to address a concern. However, if you are not comfortable speaking with your supervisor or if you are not satisfied with your supervisor's response, you are encouraged to speak to the Corporate Compliance Officer, to any member of the Governance and Compliance Committee of the Board of Directors of the Agency (the "Board") or to anyone in management you feel comfortable approaching. If a direct supervisor or other person receives a report of a concern, that information should be shared with the Compliance Officer. If you are not an employee or volunteer, you should report any Violation directly to the Corporate Compliance Officer. If you are not comfortable making a report to the Compliance Officer or if the Compliance Officer is the subject of the complaint, a report can be made directly to a member of the Governance and Compliance Committee of the Board or the Executive Director.

3.2 Identity; Confidentiality. The Agency encourages anyone reporting a Violation to identify themselves when making a report to facilitate the investigation of the Violation. However, reports addressed to an individual within the Agency may be submitted on a confidential basis and reports may be submitted to the Corporate Compliance Officer anonymously by submitting them directly, without providing an identity or return address, to the Corporate Compliance Officer using the contact information set forth in **Section 5.2** below.

3.3 How to Report. The report of any Violation may be made in person, by telephone or by mail, electronic mail or other written communication. The report should contain sufficient information to permit adequate investigation. At a minimum, the following information should be provided: (a) a description of the nature of the improper activity, with sufficient detail to permit an initial investigation; (b) the name(s) of the individual(s) and/or department(s) engaging in the activity

or with knowledge of the activity; (c) the approximate or actual date(s) the activity took place; and (d) an explanation of any steps taken internally with the Agency's management to report or resolve the complaint.

ARTICLE IV COMPLIANCE AND ADMINISTRATION

4.1 Notification of Violation; Acknowledgement. Every supervisor, manager, director and other representative of the Agency is required to notify the Corporate Compliance Officer of every report of a Violation. The Corporate Compliance Officer will notify the sender and acknowledge receipt of a report of Violation within seven (7) business days, but only to the extent the sender's identity is disclosed or a return address is provided.

4.2 Investigation; Correction.

(a) The Corporate Compliance Officer is responsible for promptly investigating all reported Violations and for causing appropriate corrective action to be taken if warranted by the investigation. The Corporate Compliance Officer shall conduct an investigation into the reported Violation as soon as practicable thereafter. Such investigation shall be conducted as confidentially as possible under the circumstances, consistent with the need to conduct an adequate investigation, to comply with all applicable laws, and if appropriate, to cooperate with law enforcement authorities.

(b) The Corporate Compliance Officer shall review the policies and procedures of the Agency and make note of any alleged Violation. A log should be maintained of all Alleged Violations and the results of the investigation.

(c) The Corporate Compliance Officer shall assess, in the most confidential manner possible, the concerns of the director, officer, employee, key person or volunteer who reported the alleged Violation, as well as those of other directors, officers, employees or volunteers who may have an understanding of, or be complicit in, the alleged Violation, in order to form an informative opinion on the matter and determine potential recommendations for resolution.

(d) The Corporate Compliance Officer may contact the Agency's counsel, as needed, during an investigation of a reported Violation.

(e) The Corporate Compliance Officer will prepare and submit a written report on the reported Violation to the Board of the Agency, together with recommendations as to resolution and a timeline for implementation of recommended actions. The Corporate Compliance Officer will also forward a copy of the written report to the Board.

(f) The Board shall act on the Corporate Compliance Officer's written report as appropriate, including reviewing all findings and recommendations identified therein, and submitting a written assessment of the matter, including recommendations as to resolution and a timeline for implementation of recommended actions, to the Board.

(g) Upon receipt of the written report from the Board, the matter will be considered binding and any action items, up to and including, the suspension or removal of any director, officer, employee, key person or volunteer found to have engaged in the reported Violation will be effectuated as soon as practicable.

(h) In the event that the Compliance Officer is the subject of a complaint, The Governance and Compliance Committee of the Board will assume all responsibilities of the investigation as identified above.

4.3 Administration.

(a) The Corporate Compliance Officer shall administer this Policy and shall report directly to the Board.

(b) Any person who is the subject of a whistleblower complaint shall not be present at or participate in Board deliberations or vote on the matter relating to such complaint; provided, however, that the Board may require that the person who is subject to the complaint present cooperate in the investigation and provide information or answer questions at the Board meeting prior to the commencement of deliberations or voting relating thereto.

(c) The Board is responsible for addressing all reported concerns or complaints of Violations relating to corporate accounting practices, internal controls or auditing. Accordingly, the Corporate Compliance Officer must immediately notify the Board of any such concern or complaint. In addition, if the Corporate Compliance Officer deems it appropriate, the Corporate Compliance Officer may advise the chair of the Board of any other reported Violations.

4.4 Reporting. The Corporate Compliance Officer has direct access to the Board and is required to report to it at least quarterly on compliance activity.

4.5 Documentation. The Board shall assure that all reported Violations and investigations are properly documented, including minutes of any meeting of any Committee or the Board where the matter was discussed. The documentation shall be maintained for a period of at least 10 years or longer in the event any investigation, audit or other inquiry is pending relating thereto.

ARTICLE V MISCELLANEOUS

5.1 Access to Policy. A copy of this Policy shall be distributed to all directors, officers, employees, key persons and volunteers who provide substantial services to the Agency and available on the website and the agency's SharePoint site.

5.2 Corporate Compliance Officer. The contact information of the Corporate Compliance Officer is as follows:

Amy Eells, Associate Executive Director of Quality and Performance
6666 Manlius Center Rd.
East Syracuse, NY 13057
(315)410-3318
amy.eells@accessny.org

5.3 Modification. The Agency may modify this Policy unilaterally at any time without notice. Modification may be necessary, among other reasons, to maintain compliance with federal, state or local laws and regulations and/or to accommodate organizational changes within the Agency.