Educational Requirement

Required Education about the False Claims Recovery Act for Employees, Agents, and Contractors of the District:

The purpose of this regulation is to educate employees, agents, and contractors of Austin Independent School District on the requirements of the Federal Deficit Reduction Act (DRA) of 2005. Section 6032 of the DRA, titled “Employee Education about False Claims Recovery”, aims to reduce fraud, abuse, and waste by governmental agencies. The act requires entities, including the District, that receive at least $5 million dollars annually from Medicaid reimbursements to provide their employees, agents, and contractors with information regarding federal and state false claims laws, administrative remedies under those laws, whistleblower protections to employees who report incidents of false claims, and District programs for detecting and preventing fraud, waste, and abuse in Medicaid programs.

The entire Deficit Reduction Act language may be found at:


Federal False Claims Act

The False Claims Act prohibits any person, employee, contractor, or agent from knowingly presenting or causing to be presented, a false or fraudulent claim to the United States government for payment when the person, employee, contractor, or agent:

- Knowingly presents, or causes to be presented, to an officer or employee of the United States government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

- Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government;

- Conspires to defraud the government by getting a false or fraudulent claim paid or approved by the government; or

- Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

Language for the Federal Claims Act can be found at:


Civil Penalties

Civil penalties to the United States government are for amounts not less than $5,000 and not more than $10,000, plus three times the
amount of damages, which the government sustains because of the act of that person.

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

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services he or she knows he or she has not provided.

Definitions of "Knowing" and "Knowingly"

For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information:

1. Has actual knowledge of the information;

2. Acts in deliberate ignorance of the truth or falsity of the information; or

3. Acts in reckless disregard of the truth or falsity of the information and no proof of specific intent to defraud is required.

Private Person or "Qui Tam" Whistleblower

The False Claims Act (FCA) provides that private parties ("qui tam" relators) may bring an action on behalf of the United States. These private parties may share in a percentage of the proceeds from an FCA action or settlement.

The percentage is set to be at least 15 percent but not more than 25 percent of the proceeds of the FCA action, depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the government does not intervene, section 3730(d)(2) provides that the relator will receive an amount that the court decides is reasonable, and the amount will not be less than 25 percent nor more than 30 percent.

Whistleblower Protection

In addition to District policy DG(LEGAL) addressing state law on whistleblower protections, and DGBA(LOCAL) regarding employee grievances/complaints including whistleblower complaints, the FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h).

Remedies include:
- Reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination,
- Two times the amount of any back pay,
- Interest on any back pay, and
- Compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.

**Detection of Potential Fraud or Abuse**

The District combats Medicaid fraud, waste, and abuse by investigating complaints, raising awareness of anti-fraud initiatives, and ensuring compliance with state and federal laws. The District has a responsibility to conduct its affairs ethically and in compliance with law.

In order to maintain and improve on the quality and integrity of District services, the District’s Internal Audit Department has created the Anonymous Reporting Hotline to provide the public and employees an opportunity to report fraud, theft, and abuse. The hotline can be reached as follows:

**Call the Anonymous Reporting Hotline** at (512) 414-7010. Calls can be made 24 hours a day, seven days a week. A live operator is available between 7:45 a.m. and 4:45 p.m., Monday through Friday.

**Fax the Anonymous Reporting Fax Line** at (512) 414-6717. This fax machine is located in the Internal Audit Department. No other employees or individuals have access to these faxes.

**E-mail the Anonymous E-mail Line** (confidential and secure) at http://archive.austinisd.org/inside/internalaudit/form.phtml

**Send a letter to the Internal Audit Department:**

Austin Independent School District
Anonymous Reporting Hotline
Internal Audit Department
1712 East 11th Street, Room 104
Austin, TX  78702-2717

Complete information regarding the Internal Audit Anonymous Reporting Hotline may be found at: http://archive.austinisd.org/inside/internalaudit/hotline.phtml
To report Medicaid provider fraud or abuse, please contact the Medicaid Fraud Control Unit:

Post Office Box: W. Rick Copeland
Director Medicaid Fraud Control
Office of the Attorney General
P.O. Box 12307
Austin, TX 78711-2307

Street Address: W. Rick Copeland
Director Medicaid Fraud Control
Office of the Attorney General
6330 Hwy 290 E, Suite 250
Austin, TX 78723

By e-mail at MCFU@oag.state.tx.us
By phone at (512) 463-2011
By fax at (512) 320-0974

Sources: https://www.oag.state.tx.us/forms/mfcu/
https://www.oag.state.tx.us/criminal/mfcu.shtml

The Superintendent or designee will provide information to all employees, contractors, and agents about federal and state false claim laws and the District's quality assurance program to detect and prevent fraud, waste, and abuse. The information will be included in the employee handbook and distributed to all contractors and agents as required by the Deficit Reduction Act of 2005.

The Superintendent or designee will establish the necessary rules to implement policy CAA(LOCAL). The information will include:

**Medicaid False Claim Act**

The Medicaid False Claim Act, in part, prohibits fraud in the obtaining of benefits or payments in connection with the Medicaid assistance program and provides for civil actions to recover money received by reason of fraudulent conduct.

**Whistleblower Protection**

The Texas Medicaid Fraud Prevention Act allows whistleblowers to bring suit on behalf of the State of Texas where a wrongdoer engages in conduct that defrauds the state or local government of its
health-care dollars. This statute is designed to address Medicaid fraud. (Texas Human Resources Code, Chapter 32 Medical Assistance Program, Subchapter B Administrative Provisions: “Damages and Penalties”)

Source: http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.32.htm

Retaliation

The District is committed to protecting employees from any form of reprisal, retaliation, or discrimination if they, in good faith, report suspected illegal activity. An employee who believes he or she has suffered reprisal, retaliation, or discrimination must immediately report the incident(s) to the director of human resources, the Superintendent, or the Board as appropriate and in accordance with policy DGBA(LOCAL).

The Board considers retaliation to be a major offense that will result in disciplinary action against the offender up to and including termination of employment, in accordance with policies at DF.

Additional Resources

Additional Resources—Relevant laws and rules include, but are not necessarily limited to:

- Section 6032 of the Deficit Reduction Act of 2005 (Public Law 109-171) (establishes Section 1902(a)(68) of the Social Security Act, 42 U.S.C. 1396a(a))
- The Civil Monetary Penalties Law, 42 U.S.C. 1320a-7a: Civil Monetary Penalties Law
- Pertinent Texas Statutes and Rules:
  - Texas Human Resources Code Chapter 32, Sections 32.039 and 32.0391
  - Texas Human Resources Code Chapter 36
  - Texas Government Code Chapter 531, Subchapter C, Sections 531.101 et seq
  - Texas Administrative Code, Title 1, Part 15, Chapter 371
- Centers for Medicare and Medicaid Services (CMS) Guidance:
  - State Medicaid Directors Letter #06-025
• State Medicaid Directors Letter #07-003

• Frequently Asked Questions

• Official Description of the False Claims Act

• Texas Waste, Abuse, and Fraud Hotline: 1-800-436-6184

• Texas Health and Human Services Office of Inspector General: https://oig.hhsc.state.tx.us/

Source: Texas Human Health and Services Commission (links available on page 2 of the Provider Notification document)

http://www.hhsc.state.tx.us/medicaid/Provide_Notification.pdf