

**LIVINGSTON COUNTY
REGULATORY COMPLIANCE PLAN**

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**Livingston County Compliance Plan
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Regulatory Compliance Plan Preamble

Statement: *The US Department of Health and Human Services, Office of the Inspector General (OIG) has mandated compliance with health care regulations by the health care industry to insure that claims submitted to Federal Health Care Programs are true and accurate. The NYS Medicaid Office of the Medicaid Inspector General (OMIG) has promulgated rules and regulations in compliance with Federal and State laws to insure that claims submitted to State Health Care Programs are true and accurate. There are both civil and criminal legal penalties for failure to adhere to a Compliance Plan and for failure to follow the law.*

Intent: *Livingston County through its Board of Supervisors, Compliance Committee, and Compliance Officer do by this Compliance Plan seek to insure that all of Livingston County's Health Care Programs, Health Care Providers, Health Care Contractors, County vendors, County employees and volunteers will insure that health care claims submitted to Federal and State Health Care reimbursement programs are true and accurate. The methods instituted for such insurances are contained in this document. The penalties for failure to adhere to this compliance plan as well as penalties for failure to comply with relevant State and federal laws related to all aspects of fraudulent health care practices are referenced herein. The legal protections afforded employees who report health care fraud are referenced in this document as well as the county's own policy protections for employees who report health care fraud.*

Regulatory Compliance Plan Definitions

Claim

As used in the New York False Claims Act, *claim* means any request or demand, whether under a contract or otherwise, for money or property which is made to any employee, officer or agent of the state or of a local government, or to any contractor or grantee, or other recipient, if the state or a local government provides any portion of the money or property which is requested or demanded or will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded.

False Claim

False claim means any claim, which is either in whole or in part, false or fraudulent.

Federal False Claim Act (FFCA)

The FFCA also known as the Qui Tam Statute, the Informer's Act or the whistleblower law allows a private person (such as a County employee) to sue a person or company who is knowingly or negligently submitting false claims to the federal government including but not limited to health care fraud. Some examples of fraud are submitting bills for services not provided, submitting a false record that does not comply with a contractual requirement, obtaining interim payments throughout the year and then filing a false cost report at the end of the year to avoid making a refund.

Lawsuits under this statute are called *qui tam* suits. If the qui tam suit is successful, the whistleblower known as a "qui tam relator" will be entitled to 15 - 30 % of the government's total recovery, which includes damages for false bills, tripled, plus civil penalties between \$5,000 - \$10,000 per claim. To recover, the relator must have complied with complex statutory requirements. Merely providing information to a hotline will not entitle the relator to a recovery under the FFCA.

New York State False Claims Act (NYSFCA)

The NYSFCA also referred to as a Qui Tam Statute or whistleblower law allows a private individual (such as a County employee) to sue a person or company (including a fellow employee or employer in their individual capacity), if such person or company knowingly submits a false or fraudulent claim to a state or local government (such as NY State or Livingston County). Such false or fraudulent financial claims include but are not limited to health care fraud in programs such as Medicaid.

Persons who are civilly prosecuted under this law will be liable to the state for a civil penalty between \$6,000 - \$12,000 per claim, plus three times the amount of damages which the state sustains because of the act of such person, and liable to the local government for three times the amount of the damages sustained by such local government because of the act of such person.

Lawsuits under this statute are called *qui tam* suits, and those reporting fraud are called "*qui tam relators*". A *relator* in a successful lawsuit may recover between 15%-30% of the proceeds in the action or settlement of the action, depending who prosecutes the action.

Overpayment

An *overpayment* is a payment of an amount greater than required or permitted by law, regulation or agreement.

"Qui Tam"

The term is a Latin abbreviation for an individual who brings a lawsuit on behalf of the government as well as himself.

Qui Tam Relator

A *qui tam relator* is an informant or whistleblower who relates insider information of wrongdoing sufficient to bring a lawsuit on behalf of the aggrieved government under one of the qui tam statutes that include the FFCA and the NYSFCA.

Qui Tam Statutory Protections and Remedies

Both the FFCA and NYSFCA protect qui tam plaintiffs who are demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employer or on behalf of the government in furtherance of an investigation for, initiation of, or testimony for, or assistance in an action to be filed in court under the qui tam statute. This provision allows reinstatement, double back pay, interest on the back pay, plus special damages including litigation costs and reasonable attorney fees.

Whistleblower

A *whistleblower* is an informant within an organization who discloses insider information of wrongdoing.

(1) “Qui tam relator” is one type of Whistleblower under the Federal and State False Claims Acts. Whistleblowers under other laws include the following:

(2) Under the New York Civil Service Law a whistleblower is a public employee who discloses to a public employer or other government body information (a) regarding a violation of a law, rule or regulation which violation presents a substantial and specific danger to the public health or safety; or (b) which an employee believes constitutes an improper governmental action. “Improper governmental action” shall mean any action by a public employee or public employer which is undertaken in the performance of such person’s official duties, and which is in violation of any federal, state or local law or rule or regulation.

(3) Under New York Labor Law §740 a whistleblower is a private employee who does any of the following: (a) discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of a law, rule or regulation which violation creates and presents a substantial and specific danger to public health or safety, or which constitutes health care fraud; (b) provides information to, or testifies in an investigation, hearing or inquiry into a violation of a law, rule or regulation by such employer; or (c) objects to or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

Whistleblower Laws

In general *Whistleblower laws* are laws that describe (1) what types of activities constitute wrongdoing and should be reported; (2) what types of actions an informant may take to report wrongdoing, and (3) what protections are provided to the whistleblower under the relevant law. The following Whistleblower laws apply to Livingston County: the Federal False Claims Act, the New York State False Claims Act, the New York State Labor Law, and the New York State Civil Service Law.

Whistleblower Statutory Protections and Remedies

For protections and remedies under a False Claim Act, see “Qui Tam Statutory Protections and Remedies” above.

Both the New York State Labor Law and the New York State Civil Service Law provide protections for whistleblowers described below.

New York State Labor Law § 740 prohibits private employers from taking any retaliatory personnel action including discharge, suspension or demotion or other adverse action in the conditions or terms of employment against employees for disclosing or threatening to disclose information to a supervisor or to a public body which information is described in the statute and described above under “Whistleblower” provisions of the New York State Labor Law.

A private employee who has been the subject of a retaliatory personnel action in violation of Labor Law §740 may bring a civil action in court and the court may order reinstatement of the employee to the same or

an equivalent position, the reinstatement of full fringe benefits and seniority rights and compensation for lost wages, benefits and other remuneration including but not limited to court costs and reasonable attorney fees.

However, if an employee institutes an action under Labor Law §740, such actions shall be deemed a waiver of the rights and remedies available under any other contract, collective bargaining agreement, law, rule, or regulation or under the common law.

Under the New York State Civil Service Law a public employer shall not dismiss or take other disciplinary or adverse personnel action against a public employee regarding the employee's employment because the employee discloses to a government body certain information described in the statute and described above under "Whistleblower" provisions of the New York State Civil Service Law. In order for the protections to apply under this law, employees must first make a good faith effort to disclose said information to the supervisor or his designee unless there is imminent and serious danger to the public health or safety. Where an employee is subject to dismissal or other disciplinary action under a final and binding arbitration provision or other disciplinary procedure contained in a collectively negotiated agreement, and the employee reasonably believes that such adverse action would not have been taken but for his or her whistleblower conduct, he or she may assert such a defense. If the arbitrator finds that the adverse personnel action is based solely on a violation by the employer of the whistleblower provisions of the New York State Civil Service Law then the arbitrator or hearing officer shall dismiss the adverse action, reinstate the employee with back pay and take other action permitted under any collectively negotiated agreement.

Where an employee who has been the subject of a retaliatory personnel action is not subject to a final and binding arbitration decision, the employee may bring a civil action in court and the court may order reinstatement of the employee to the same or an equivalent position, the reinstatement of full fringe benefits and seniority rights and compensation for lost wages, benefits and other remuneration including but not limited to court costs and reasonable attorney fees.

**Livingston County
REGULATORY COMPLIANCE POLICY**

I. Policy

It is the policy of Livingston County to comply with all applicable federal, state and local laws and regulations. It is also our policy to adhere to the Operating Principles adopted by the Livingston County Board of Supervisors, the County Administrator, and the Compliance Committee.

II. Commitment

Livingston County is committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees, contracted practitioners, and vendors to these same standards.

Livingston County is committed to maintaining and measuring the effectiveness of our Compliance policies and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees and agents. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and health care program requirements.

III. Responsibility

All employees, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the County Administrator or the Compliance Officer. Reports may be made without fear of retaliation, retribution, or breach of confidentiality. Failure to report known noncompliance or making false reports will be grounds for disciplinary action, including termination.

IV. Policies and Procedures

Livingston County will communicate its compliance standards and policies through required training initiatives to all employees, contracted practitioners, and vendors. We are committed to these efforts through distribution of this Compliance Policy.

V. Enforcement

This Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms, including, if appropriate, discipline of individuals responsible for failure to detect noncompliance.

VI. Livingston County Response to Non-Compliance

Detected noncompliance, through any mechanism, i.e. compliance auditing procedures, confidential reporting, will be responded to in an expedient manner. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

VII. Due Diligence

Livingston County will, at all times, exercise due diligence with regard to background and professional license investigations for all prospective employees, contractors, vendors, and members of the Board of Supervisors.

VIII. Whistleblower Provisions and Protections

Livingston County will extend to its employees all protections afforded to them under the applicable state and federal Whistleblower laws including the Federal False Claims Act, the New York State False Claims Act and the New York Civil Service Law. Private contractors may find protections under the New York State Labor Law as well as the False Claims Act. For detailed information on Whistleblower Provisions and Protections, refer to pages 15 and 16 of this Plan.

Service Excellence and Operating Principles

I. Service Excellence

Livingston County Government exists to serve the present and future inhabitants of the County. We place our integrity and the excellence of our service above all else. Integrity means that we regard public office and public employment as public trusts, and that we place honesty above all else. Excellence means consistently providing the level of performance that our citizens and customers have a right to expect.

II. County Operating Principles

To achieve service excellence and further these principles, we will:

- Care about the people, citizens, and customers we service, about each other, about what we do, and how well we do it.
- Cooperate with the public, with each other, and with all levels of government in order to deliver the best possible service in the most effective and efficient manner.
- Communicate honestly, supportively, and openly throughout the organization to enable a full and complete flow of information necessary to deliver excellent service.
- Create and innovate constantly, bringing all our abilities to bear on the problems facing this county and its citizens.
- Credit, by means of selection, retention, and reward, merit and fitness for public employment.

III. Expectations

We ensure that all aspects of client care and business conduct are performed in compliance with our Service Excellence and Operating Principles including all policies, procedures, professional standards and applicable governmental laws, rules and regulations. Livingston County expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. Any whose behavior is found to violate ethical standards will be disciplined appropriately.

All violations of this policy are to be reported to immediate supervisors, the Compliance Officer (CO) or the County Administrator. Additionally, any person may make an anonymous report. A confidential 877# number to voicemail is available for such reports. That number is 1-877-496-7113. The Compliance Officer, or his/her designee, will retrieve messages from the voicemail and take appropriate action.

Any supervisor receiving a report must promptly notify the Compliance Officer. If the suspected violation involves the Compliance Officer, the report should be made directly to the County Administrator or the Compliance Committee. Failure to report a suspected violation may result in disciplinary action

The Role of the Compliance Officer

I. Compliance Officer

The County Board of Supervisors of Livingston County designates the County Auditor as the Compliance Officer (CO). In the absence of the County Auditor, the County Attorney will act as the CO. The CO reports directly to the County Administrator of Livingston County. The CO has direct lines of communication to the County Administrator and the Board of Supervisors.

II. Job Duties

The CO is directly obligated to serving the best interests of Livingston County, its clients and employees. Responsibilities of the CO include:

- Chairperson of the Compliance Committee.
- Reporting, on a regular basis to the Livingston County Board of Supervisors, on the progress of the compliance work plan
- Indirect oversight of the HIPAA privacy elements of Livingston County's Compliance Plan.
- Conference with the HIPAA Privacy Officer on any reported potential or suspected HIPAA breaches.
- Ongoing monitoring of the implementation of the compliance program.

In addition to the above duties, the Compliance Officer is responsible for oversight, direction and/or approval of the:

- Development and maintenance of a Compliance Work Plan and annual Report Card of compliance activities.
- Periodic review and update of the Compliance Plan as changes occur within Livingston County and in the law and regulations of governmental and third party payors.
- Development, implementation and revision of compliance policies and procedures (P&P). Ensure the dissemination of P&P to appropriate employees.
- Internal audits for monitoring effectiveness of compliance standards.
- Provision of guidance to management, all County personnel and individual departments regarding all aspects of compliance.
- Ongoing implementation of county-wide training and communication programs to ensure that all employees and affiliated parties are educated in the Compliance Plan, Policies and Procedures, laws, regulations and other issues as are deemed necessary.
- Effective communication of Livingston County's Compliance Plan requirements to independent contractors. (Each department will send vendor letters to their vendors.)
- Maintenance of an effective, confidential reporting system that encourages internal reporting of suspected non-compliance.
- Timely completion of compliance investigations involving appropriate parties through follow up and resolution.

The Structure, Duties and Role of the Compliance Governance Committee

I. Reporting Structure and Purpose

The CO and the County Administrator recommend membership appointments to the Compliance Committee (CC) including representation from one member of the County Board of Supervisors. The CC reports compliance issues to the CO. The CC's purpose is to maintain the Livingston County Compliance Plan, conduct training for all County employees and Board of Supervisors, and direct annual audit activities of the Compliance Program, identify individual Department risk standards, including the design and implementation of the Department-specific internal monitoring and auditing of the Compliance Plan. The department head of any County health-related department or a designee is a member of the CC, and advises and assists the CO with implementation of the Compliance Plan.

II. Function

Additional roles of the **Compliance Committee** include:

- Analyzing the environment where Livingston County does business, including legal requirements with which it must comply.
- Under the direction of the CO, creation and periodic review of county-wide training and communication programs to ensure that all employees and affiliated parties are educated in the Compliance Plan, Policies and Procedures, laws, regulations and other issues as are deemed necessary.
- Review and assessment of existing P&P that address these risk areas for possible incorporation into the CP.
- Review, revise and create compliance policies and procedures.
- Development of internal systems and controls to carry out compliance standards and policies.

- Monitoring internal and external audits to identify potential non-compliant issues. Report, investigate and document compliance issues
- Assuring the implementation of corrective and preventive action plans.
- Developing a process to solicit, evaluate and respond to complaints and problems.
- Assist the CO to create, revise and implement the annual Compliance Work Plan.
- Providing a detailed summary of compliance activities and findings to the Ways and Means Committee in a timely manner thus enabling the Ways and Means Committee to make a high level summary report to the Board of Supervisors on an annual basis.

Delegation of Substantial Discretionary Authority

I. Requirement

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for Livingston County, is required to disclose any name changes, and any involvement in non-compliant activities including health care related crimes. In addition, Livingston County performs background investigations for new employees as required by law or regulation.

II. Conflict of Interest

Livingston County elected and appointed officials, employees and volunteers are governed by New York State law and the Livingston County Code of Ethics and certain persons are required to file annual financial disclosure conflict of interest statements.

Compliance Training

I. Expectations

Annual compliance training is a critical element of the Compliance Program (CP). Every employee and agent is expected to be familiar and knowledgeable about Livingston County's Compliance Plan ("Plan") and have a solid working knowledge of his or her responsibilities under the Plan. Compliance policies and standards will be communicated to all employees through required participation in training programs. Employees who fail to attend required compliance training will be subject to disciplinary action. The CC, under the direction of the CO, will create and periodically review the county-wide and department specific training and communication programs to ensure that all employees and affiliated parties are educated in the Compliance Plan, Policies and Procedures, laws, regulations and other issues as are deemed necessary.

II. Training Topics - General

All personnel outside of the healthcare related departments (identified below) and members of the Board of Supervisors shall participate in training on the topics identified below:

- Government and private payer reimbursement principles,
- Legal requirements and authority for compliance program,
- General prohibitions on paying or receiving remuneration to induce referrals,
- Prohibitions against submitting a claim for services when documentation of the service does not exist,
- Prohibitions against signing for the work of another employee,
- Prohibitions against alterations to business records,
- Duty to report misconduct and how to report suspected non-compliance,
- Federal False Claims Act provisions,

- New York State False Claims Act provisions, and
- False Claims Act whistleblower provisions and protections

III. Training Topics – Health Care Related Departments

Healthcare related departments, including Center for Nursing and Rehabilitation, Public Health, Pre-K, and Mental Health shall receive detailed training on all aspects of compliance including the elements identified above as well as detailed information regarding department-specific risk areas and information on current enforcement activities. The healthcare related department Compliance Training will be in addition to the general training offered to all county employees.

IV. Orientation

As part of their orientation, each employee, including newly elected officials, and contractor shall receive a written copy of the Compliance Plan, policies and specific standards of conduct that affect their position or information about where and how to find this information on-line.

V. Attendance

All training relating to the Compliance Plan will be verified by attendance and a signed acknowledgement of the training. Signed acknowledgement will be retained by the department and the CO. Attendance at compliance training sessions is mandatory. Failure to attend required compliance training will result in disciplinary action.

All departments must record in-service training at the department level.

Department in-service training on compliance related matters will be documented and maintained by the department head who will report the status of compliance related training to the Compliance Committee on a semi-annual basis.

Effective Confidential Communication

I. Expectations

Open lines of communication between the CO and every employee and agent subject to this Plan is essential to the success of our Compliance Program. Every employee, agent and contractor has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

II. Reporting Procedure

If an employee, contractor or agent witnesses, learns of, or is asked to participate in, an activity that could potentially violate or is suspected or known to violate this Compliance Plan or any Livingston County policy, or any law or regulation he or she must report the request and the activity. Employees, agents and contractors should endeavor to contact their acting supervisor or department head first. If those persons are not available, or the reporter has reason to believe that the supervisor or department head is a party to the activity, or if the suspected violation presents an immediate or serious danger to the public health or safety, then the employee, agent or contractor shall contact the Compliance Officer (“CO”).

Upon receipt of a question or concern, any supervisor receiving the report shall inform the CO and department head of the issue. The CO or designee shall investigate the issue and complete the reporting

form. Any questions or concerns relating to potential non-compliance by the CO must be reported immediately to the County Administrator. The CO may, at any time, contact the County Attorney's office for advice, counsel, assistance, and/or support.

The CO or designee shall record the information necessary to conduct an appropriate investigation of all complaints. The CO or designee shall record the facts of the contact, the nature of the information sought and respond as appropriate. Livingston County shall, as much as is possible, protect the anonymity of the employee or contractor who reports any complaint or question.

The Livingston County CO will accept anonymous reports of suspected or known non-compliance.

III. Protections

In the event an anonymous report is received no attempt will be made to identify the reporter. The identity of reporters will be safeguarded to the fullest extent possible and reporters will be protected against retaliation or retribution, or any other form of reprisal. Report of any suspected violation of this plan shall not result in any reprisal as long as the reporter is not a party to any fraudulent or illegal activity. Any individual who threatens reprisal against a person who acts pursuant to his or her responsibilities under the plan is acting against the Livingston County's compliance policy. Any employee who engages in any such act of reprisal or who threatens such act shall be subject to disciplinary action, up to and including termination of employment.

IV. Guidance

Any employee, agent or contractor may seek guidance with respect to the Compliance Plan or the County's Operating Principles at any time by following the reporting mechanisms outlined above. Any employee, agent or contractor who has concerns about activities, information or compliance policies may seek guidance from the CO.

Enforcement of Compliance Standards

I. Background Investigations and OIG Exclusion Verification

Livingston County will conduct a reasonable and prudent background investigation, including a reference check, as part of every employment application, if required by law, regulation or policy. Background checks may include fingerprinting, criminal background investigations, professional license verification, driver's license verification, drug screening. OIG exclusion verification will be performed as part of every employment application. Additionally, an OIG exclusion verification will be performed on all appropriate employees, appointees, executive and governing body members and covered contractors and vendors. In the event any such person or entity is determined to be an excluded individual, appropriate action will be taken to verify the excluded status and, if verified, remove them from participation with Federal Health Care Programs.

II. Disciplinary Action - General

Employees who fail to comply with Livingston County's compliance policy and standards, or who have engaged in conduct that has the potential of impairing Livingston County's status as a reliable, honest, and trustworthy service provider may be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. A copy of records of all disciplinary actions involving the

Compliance Plan shall be filed with the CO who will report annually to the Board of Supervisors regarding such actions. As stated earlier in this Plan, any action or behavior that is not in conformity with the County's Compliance Plan, stated or intended standards, guidelines, or procedures or that is a violation of any federal or state law or regulation, will be deemed Official Misconduct and will result in disciplinary action.

III. Performance Evaluation - Supervisory

Livingston County's Compliance Program requires that the promotion of, and adherence to the elements of the Compliance Program be a factor in evaluating the performance of all Livingston County employees and contractors. They will be periodically trained in new compliance policies and procedures. In addition, all Healthcare related department heads and managers will:

- a. Discuss with all supervised employees the compliance policies and legal requirements applicable to their function.
- b. Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment.
- c. Disclose to all supervised personnel that Livingston County will take disciplinary action up to and including termination for violation of these policies and requirements.

IV. Disciplinary Action - Supervisory

In the event that a report is made to a director, manager, or acting supervisor, and that responsible party fails to act upon the report, the responsible party is subject to corrective action.

In situations where reasonable diligence on the part of the director, manager or acting supervisor would have led to the earlier discovery of any problem or violation and would have provided Livingston County the opportunity to correct them, the responsible party will be subject to corrective action.

Auditing and Monitoring of Compliance Activities

I. Internal Audits

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of Livingston County's Compliance Program. An ongoing auditing and monitoring system, at the direction of the CO, in consultation with the Compliance Committee, is an integral component of our auditing and monitoring activity. This ongoing evaluation will include, but shall not be limited to the following:

- Assessment of risk levels within County departments,
- Audit of internal controls and review of external audits,
- Relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions,
- 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 CO and CC,
- Effectiveness of required Corrective Action Plans in meeting standards.
- Internal audit findings will be reported to the CC quarterly or semi-annually as audits are completed. The CC will include audit findings in its annual report to the Board of Supervisors.

The audits and reviews will examine Livingston County's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires, review of contracts, training records, billing and other financial records, and client record documentation reviews.

II. Plan Integrity

Additional steps to ensure the integrity of the CP include:

- Healthcare related department heads will notify the CO by telephone immediately, in the event of any non-routine visits, audits, investigations or surveys by any federal or state agency or authority.
- A photocopy of Intent to Audit correspondence received by any of Livingston County's healthcare related departments from any regulatory agency charged with administering a federally or state-funded program shall be sent to the CO.
- The CO is responsible for notifying the CC of any applicable changes in laws, regulations or policies as the information becomes available. The CO is responsible for facilitating the review and modification, or creation of applicable policies and procedures as indicated by changes in laws, regulations or policies, and for providing actual training and/or training curricula on new regulations and laws so as to ensure continuous compliance.

Detection and Response

I. Violation Detection

If as a result of any audit, report, observation, or by any other means, the CO, County Administrator and/or the CC determines that there is any basis to suspect that a violation of the CP may have occurred, the matter shall be referred by the CO to legal counsel, who, with the assistance of the CO, shall conduct a more detailed investigation if warranted. This investigation may include, but is not limited to, the following:

- Interviews with individuals having knowledge of the facts alleged,
- A review of documents, and
- Legal research and contact with governmental agencies for the purpose of clarification.

If advice is sought from a governmental agency, the request and any written or oral response shall be fully documented.

II. Reporting

The written legal response will be reviewed with legal counsel in attendance. Any additional action will be on the advice of counsel.

The CO shall report to the CC regarding each investigation conducted.

The CO will make periodic reports to the Ways and Means Committee of the Board of Supervisors.

III. Rectification

If Livingston County identifies that an overpayment was received from any payer, Livingston County will notify the payor of the overpayment. The overpayment shall be repaid to the affected payer according to the payor's policy. Systems shall also be implemented and routinely monitored to prevent such overpayments in the future.

IV. Record Keeping

Regardless of whether a report is made to a governmental agency, the CO shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the County Administrator or legal counsel.

Whistleblower Provisions and Protections

Whistleblower Provisions and Protections

Livingston County will extend to its employees all protections afforded to them under the applicable State and federal Whistleblower laws including the Federal False Claims Act, the New York State False Claims Act and the New York Civil Service Law. Private contractors may find protections under the New York State Labor Law as well as the False Claims Acts.

I. New York Civil Service Law

It is the County's intent to encourage honesty in the conduct of business. Therefore, the County relies on its employees, contractors and agents to guard against fraud, by confidently reporting all instances of fraud and suspected fraudulent activities to the employer. In the first instance, reports must be made to the reporter's Supervisor to take corrective action, or if unavailable, or involved, the report should be made to the Department Director, the Compliance Officer, or the County Administrator.

The New York State Civil Service Law prohibits the County from dismissing or taking other disciplinary or other adverse personnel action against a public employee who reports fraud, wrongdoing or violations of the law, to Livingston County or to another government body as long as the employee first reports to a Supervisor. These protections apply to disciplinary proceedings, arbitration and collective bargaining agreements where the adverse action taken by the employer is based solely on retaliation for whistleblower conduct.

Where the employee who has been the subject of a retaliatory personnel action is not subject to a final and binding arbitration decision, the employee may bring a civil action in court and the court may order reinstatement of the employee to the same or an equivalent position, the reinstatement of full fringe benefits and seniority rights and compensation for lost wages, benefits and other remuneration including court costs and attorney fees.

II. State and Federal False Claims Acts

Where an employee reports false, fraudulent or suspected fraudulent acts in regard to financial transactions including claims, documents or contracts for money, goods or services related to federally or state funded financing, and where as a result of such report, said employee suffers dismissal, disciplinary, or other adverse personnel action, the Federal or State False Claims Acts may offer remedies.

Under the Federal False Claims Act any person may bring a qui tam civil action for a violation of the Federal False Claims Act on behalf of the federal government. Furthermore, an employee may bring a qui tam lawsuit in U. S. District Court if the employee has been discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee in reporting a false claim to the employer or to a government body.

To obtain relief under the *Federal False Claim Act* the whistleblower must file a lawsuit called a “qui tam” suit in Federal District Court. If the *qui tam* suit is successful the whistleblower, known as a “qui tam relator” will be entitled to 15 - 30 % of the government’s total recovery, which includes damages for false bills, tripled, plus civil penalties of from \$5,000 - \$10,000 per claim. For employees who have been the subject of an adverse personnel action, other relief available through successful litigation includes: reinstatement with the same seniority status, 2 times the amount of back pay, interest on the back pay and compensation for any special damages sustained including court costs and attorney fees.

To recover, the relator must have complied with complex statutory requirements. Merely providing information to a hotline will not entitle the relator to a recovery under the False Claims Act.

III. New York State False Claims Act (NYSFCA):

The NYSFCA also referred to as a Qui Tam Statute or whistleblower law allows a private individual (such as a County employee) to sue a person or company (including a fellow employee or employer in their individual capacity), if such person or company knowingly submits a false or fraudulent claim to a state or local government (such as NY State or Livingston County). Such false or fraudulent financial claims include but are not limited to health care fraud in programs such as Medicaid.

Lawsuits under this statute are called *qui tam* suits, and those reporting fraud are called “*qui tam relators*”. A *relator* in a successful lawsuit may recover between 15%-30% of the proceeds in the action or settlement of the action, depending who prosecutes the action. Employees who have been the subject of a retaliatory personnel action may also be entitled to reinstatement to their position, reinstatement of full fringe benefits and seniority rights, payment of 2 times back pay, plus interest and compensation for any special damages sustained including litigation costs and attorney fees.