



TITLE	POLICY NUMBER	
Fraud, Waste, and Abuse	DCS 02-19	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Business Operations	May 21, 2018	5

## **I. POLICY STATEMENT**

The Department of Child Safety (DCS) shall maintain a workplace free of the commission or concealment of acts of fraud, waste, or abuse (FWA). DCS shall comply with all applicable federal and state laws pertaining to FWA.

## **II. APPLICABILITY**

This policy applies to any FWA or suspected FWA involving any employee (including management), consultant, vendor, contractor, outside agency, or person doing business with DCS or in any other relationship with DCS. Depending on the nature of the allegation, Audit Management Services or Human Resources shall investigate complaints of FWA. All incidents of fraud and theft must be reported to Audit Management Services as well as the Arizona Department of Administration General Accounting Office and the Office of the Attorney General.

As a Medicaid contractor, the Department of Child Safety Comprehensive Health Plan (DCS CHP) maintains its own Corporate Compliance Program and has a separate and distinct policy governing the reporting responsibilities for alleged FWA involving Arizona Health Care Cost Containment System (AHCCCS) funds. This policy is located in the AHCCCS Contractor Operations Manual, [Chapter 100, Section 103](#).

## **III. AUTHORITY**

[A.A.C. R2-5A-501](#)

Standards of Conduct

<a href="#"><u>A.R.S. § 8-453</u></a>	Powers and duties
<a href="#"><u>A.R.S. § 13-2310</u></a>	Fraudulent schemes and artifices; classification; definition
<a href="#"><u>A.R.S. § 23-1501</u></a>	Severability of employment relationships; protection from retaliatory discharges; exclusivity of statutory remedies in employment
<a href="#"><u>A.R.S. § 38-501</u></a>	Application of article
<a href="#"><u>A.R.S. § 38-502</u></a>	Definitions
<a href="#"><u>A.R.S. § 38-503</u></a>	Conflict of interest; exemptions; employment prohibition
<a href="#"><u>A.R.S. § 38-506</u></a>	Remedies
<a href="#"><u>A.R.S. § 38-508</u></a>	Authority of public officers and employees to act
<a href="#"><u>A.R.S. § 38-531</u></a>	Definitions
<a href="#"><u>A.R.S. § 38-532</u></a>	Prohibited personnel practice; violation; reinstatement; exception; civil penalty
<a href="#"><u>A.R.S. § 38-533</u></a>	Exemptions
<a href="#"><u>A.R.S. § 38-534</u></a>	Appropriate independent personnel boards
<a href="#"><u>A.R.S. Title 38, Chapter 3, Article 8</u></a>	Conflict of Interest of Officers and Employees
<a href="#"><u>State of Arizona Accounting Manual</u></a>	Topic 5, Sect. 30: Fraud, Theft, Waste and Abuse

<a href="#">State Personnel System Employee Handbook</a>	Arizona Department of Administration
<a href="#">18 USC § 287</a>	False, fictitious or fraudulent claims
<a href="#">18 USC Chapter 47</a>	Fraud and False Statements
<a href="#">31 USC § 3729 et seq.</a>	The False Claims Act
<a href="#">42 USC § 1320a-7</a>	Exclusion of certain individuals and entities from participation in Medicare and State health care programs
<a href="#">42 CFR § 455 Subpart A</a>	Medicaid Agency Fraud Detection and Investigation Program

#### IV. DEFINITIONS

Abuse: The intentional, wrongful, or improper use of resources or misuse of rank, position, or authority that causes the loss or misuse of resources such as tools, vehicles, computers, copy machines, etc. Examples of abuse include:

- An employee using state equipment to conduct personal business;
- An employee using non-confidential taxpayer information to get new customers for his/her outside business.

Abuse may also pertain to unsound fiscal, business, medical, or beneficiary practices that result in unnecessary costs to the AHCCCS program, or in reimbursement for services that are not medically necessary, or that fail to meet professionally recognized standards for health care.

Arizona Health Care Cost Containment System (AHCCCS): The Medicaid agency that offers health care programs to Arizona residents.

Audit Management Services (AMS): The entity within DCS that performs internal compliance audits and manages external audits.

Department of Child Safety Comprehensive Health Plan (DCS CHP): The AHCCCS (Medicaid) health plan for children in foster care. DCS CHP maintains its own Corporate Compliance Program.

Conflict of interest: Conflicts occur when individuals performing official duties take advantage of professional relationships or exploit others to further their personal, religious, political, or business interests or those of an associate or relative (as defined in [A.R.S. § 38-502](#)).

Department or DCS: The Arizona Department of Child Safety.

Director: The Director of the Department of Child Safety.

Employees: all DCS staff, interns, and volunteers who perform official duties.

Fraud: An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in an unauthorized benefit to himself or another person. It includes any act that constitutes fraud under applicable federal or state law. External fraud includes dishonest acts perpetrated by contractors, providers, or any individuals outside of DCS, including but not limited to bid-rigging, price fixing, submitting invoices for goods and services not rendered, theft of confidential information, failing to meet contractual requirements, misrepresenting qualifications to obtain a contract or perform services, and seeking bribes from DCS staff or management.

Incident: A situation of possible fraud, waste, or abuse as defined in this policy that has the potential for liability to the state.

Investigation: A detailed examination or inquiry to determine if an act of fraud, waste, or abuse has been committed.

Learning and Development: The entity within DCS tasked with developing and delivering training to DCS employees as well as DCS contractors, providers, and volunteers. Trainings reduce liabilities for DCS and enhance the Department's efforts to successfully engage children and families to ensure safety, strengthen families, and achieve permanency.

Office of Licensing and Regulation (OLR): The DCS office that oversees and monitors licensed foster homes and group homes. OLR is also responsible for the licensure of child placing agencies and adoption agencies across the State of Arizona.

Ombudsman: The DCS office assigned to assist parents, guardians, families and other interested parties involved with DCS when they are dissatisfied with services, actions or lack thereof, or treatment by DCS staff.

Provider: Any person or entity that contracts with DCS for the provision of services that support the Department's mission.

State of Arizona Accounting Manual (SAAM): A reference manual published by the Arizona Department of Administration's General Accounting Office which outlines a uniform accounting system to which all state agencies are required to comply.

Senior Leadership: Includes but is not limited to those who report directly to a Deputy Director or the DCS Director. It pertains to individuals assigned to oversee Departmental units such as Accounting/Budget and Finance, Business Operations, Comprehensive Health Plan, Audit Management Services, Human Resources, Information Technology, Office of Licensing and Regulation, and Procurement.

Waste: Over-utilization or inappropriate utilization of services, misuse of resources, or practices that result in unnecessary cost to the Department.

## V. POLICY

- A. DCS shall promote consistent, legal, and ethical practices by assigning responsibility for managing allegations of FWA. For FWA involving AHCCCS program funds, DCS CHP gathers data for review and reports the matter to AHCCCS, which has investigative responsibility.
- B. DCS both prevents and detects suspected FWA through internal and external monitoring and auditing. DCS shall thoroughly investigate any reported incidents of suspected FWA to determine if disciplinary action, financial recovery, and/or referral to other appropriate authorities for possible action should occur. Additionally, DCS CHP, as a Medicaid contractor, has its own policy relating to FWA outlined in its [Contractor Operations Manual](#).
- C. Any DCS employee who suspects FWA related to DCS activities must report the suspected activity within one business day ([SAAM 05-30](#)) to the DCS Risk Management Department. An *Unusual Incident Report* must be submitted to the Risk Operations Manager at [OpRiskManagement@azdcs.gov](mailto:OpRiskManagement@azdcs.gov) to document the employee's concerns.

Employees who in good faith report any violations or suspected violations of law, mismanagement, waste, or abuse of authority are protected from retaliation or harassment as a result of their report, provided the report is compliant with the provisions of the following statute:

1. An employee is protected under [A.R.S. § 23-1501](#): *Severability of employment relationships; protection from retaliatory discharges; exclusivity of statutory remedies in employment.*
  2. An employee who reports a matter of public concern to a public body (as defined in [A.R.S. § 38-531](#)) is protected under [A.R.S. § 38-532](#): *Prohibited personnel practice; violation; reinstatement; exceptions; civil penalty.*
- D. Any individual who is not a DCS employee shall direct their report to the Office of the Ombudsman. The Office of Ombudsman may refer the report to Audit Management Services (AMS) or Human Resources (HR).
- E. Individuals who report FWA may remain anonymous but are encouraged to cooperate with investigators and should provide as much detail and evidence of the alleged act as possible.
- F. New DCS employees are required to take Standard of Conduct (LAW100) and Employee Handbook (SPSORI100) training. Both address issues relating to FWA.
- G. Responsibilities
1. The DCS Director, Deputy Directors, and Senior Leadership are responsible for enforcing this policy.
  2. The Department shall cooperate fully with any investigations performed by external entities such as the Arizona Office of the Auditor General, Arizona Health Care Cost Containment System, or the U.S. Department of Health and Human Services into FWA allegations involving DCS or its contractors.
  3. Learning and Development is responsible for ensuring that employees are trained and educated about this policy and monitoring for training compliance. DCS CHP shall facilitate Medicaid-required training to its employees.

4. All employees are responsible for adhering to this policy and all corresponding procedures. Each employee shall:
  - a. uphold the Department's vision, mission, and guiding principles;
  - b. adhere to the Standards of Conduct for State Employees;
  - c. report known or suspected incidents of FWA within one business day. Individuals who report FWA should not attempt to personally conduct investigations or interviews/interrogations related to any suspected act; and
  - d. participate in any ensuing investigations.

## VI. PROCEDURES

### A. Reporting Fraud, Waste, and Abuse

Two units within DCS accept reports of FWA: the Office of the Ombudsman and the Risk Management Department.

- The Office of the Ombudsman accepts reports from all external (non-DCS) sources for allegations regarding FWA pertaining to DCS. The Ombudsman may refer the report to AMS or HR.
- The Risk Management Department accepts reports from DCS employees who make allegations regarding FWA pertaining to DCS. Risk Management shall refer the report to AMS or HR.
- The DCS Comptroller will report suspected FWA to the Arizona Department of Administration General Accounting Office at [reportfraud@azdoa.gov](mailto:reportfraud@azdoa.gov) and the Office of the Attorney General at [SISDutyAgent@azag.gov](mailto:SISDutyAgent@azag.gov). The suspected FWA must include:
  - nature of suspicious activity;
  - how the suspicious activity became known;
  - persons involved in the suspicious activity; and
  - date, time and place and other particulars related to the suspicious activity.

#### 1. Allegations from External (Non-DCS Employee) Sources

Individuals who wish to report allegations about known or suspected FWA pertaining to DCS should contact the DCS Office of the Ombudsman. Reporters should provide as much detail and evidence of the alleged acts as possible. Reports may be sent to [Ombudsman@azdcs.gov](mailto:Ombudsman@azdcs.gov) or mailed to the DCS Office of the Ombudsman, P.O. Box 6030, S/C C010-23, Phoenix, AZ 85005-6030.

The Ombudsman shall refer the report to the AMS Administrator if the allegation is related to a DCS vendor having committed FWA, or HR Employee Relations if the allegation is related to employee misconduct. The Office of the Ombudsman, and by extension AMS and HR, may acknowledge receipt of the report but cannot provide information regarding what action, if any, is taken on any report, even to the individual making the allegation.

The decision to conduct an investigation is predicated on the significance of the allegations contained in the report. Factors considered when deciding whether to conduct an investigation include, but are not limited to, whether the allegations consist of:

- committing FWA knowingly;
- misappropriating funds, supplies, assets, or other DCS resources (e.g., email, computers, facilities, personnel);
- taking for personal use funds, supplies, assets, or other DCS resources;
- using DCS resources to conduct business unrelated to DCS (excluding incidental use);
- performing intentional actions that resulted in a benefit or advantage to which a recipient was not entitled;
- manipulating, distorting, or altering information for personal gain or recognition;
- destroying records, property, equipment, information or other resources or assets without authorization;



- influencing or coercing another person to commit an act of FWA;
- hindering the detection of any acts of FWA.

If the investigation substantiates that fraudulent, wasteful, or abusive activity has occurred, a report will be issued to the Director and Deputy Directors. In the report, the AMS, HR or OLR will include recommendations about actions to address the issues that prompted the investigation. Decisions to refer the investigation results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made by the Director and Deputy Director.

## 2. Allegations from Internal (DCS Employee) Sources

DCS employees who wish to report allegations about known or suspected FWA pertaining to DCS shall submit an *Unusual Incident Report* (UIR) to Risk Management. Employees should provide as much detail and evidence of the alleged acts as possible. Reports may be sent to [OpRiskManagement@azdcs.gov](mailto:OpRiskManagement@azdcs.gov) or mailed to Risk Management Department, P.O Box 6030, S/C C010-21, Phoenix, AZ 85005-6030.

Risk Management shall forward the report to AMS Administrator if the allegation is related to a DCS vendor alleged to have committed FWA, or HR Employee Relations if the allegation is related to employee misconduct. If the UIR contains allegations related to the licensing of foster homes, group homes, child placing agencies, or adoption agencies, Risk Management shall forward the UIR to OLR Program Administrator.

Risk Management, and by extension AMS, HR, and OLR, may acknowledge receipt of the report, but cannot provide information regarding what action, if any, is taken on any report, even to the individual making the allegation.

If the investigation substantiates that fraudulent, wasteful, or abusive activity has occurred, a report will be issued to the Director and Deputy Directors. In the report, AMS, HR, or OLR will include recommendations about actions to address the issues which prompted the investigation. Decisions to refer the investigation results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made by the Director and Deputy Director.

## B. Information Required for Reports

All reports must contain identifying information including the names, addresses, phone numbers, and email addresses of the individual, program, or unit where FWA is alleged, as well as a summary of the allegation.

All information received will be treated confidentially. Individuals who report FWA to Risk Management or the Ombudsman should not attempt to personally conduct investigations or interviews/interrogations related to any suspected act.

## VII. FORMS INDEX

[Unusual Incident Report \(DCS-1125A\)](#)