



## Early Learning Coalition of Southwest Florida

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| <b>Subject:</b> Appeals and Hearings |   |  |
| <b>Policy #:</b><br>ELCSWF-EL0015-08 | <b>Category:</b><br>Program Quality and Standards | <b>Reference #:</b><br>OEL-EL-220                                  |
| <b>Approval:</b><br>Sept. 27, 2008   | <b>Effective Date:</b><br>Sept. 27, 2008          | <b>Replaces (policy # and date):</b><br>ELCSWF-EL0015-06 (1/25/06) |

- I. **PURPOSE:** To establish a standardized policy and procedure for individuals or providers to appeal an action that adversely affects their participation in an Early Learning Services.
- II. **REVIEW HISTORY:** This policy is established to work in tandem with all other local policies and replaces any previous written or verbal directives.
- III. **CONTACT:** Chief Executive Officer.
- IV. **PERSONS AFFECTED:** School Readiness and Voluntary Pre-Kindergarten clients, all child care providers, central agency staff and the Early Learning Coalition of Southwest Florida Executive Board.
- V. **POLICY:** This policy sets the process in which parents or providers who believes that they have been unjustly or adversely affected from their participation in the early learning programs has a right to appeal the action.
- VI. **RATIONALE:** All former, current or potential clients or providers have a right to be treated in a fair and judicious manner.
- VII. **CROSS REFERENCES:** 45CFR98, Code of Federal Regulations; Chapter 411.01-243, Chapter 402.310-319, Chapter 1002.51-79, Florida Statutes; Rule 60BB-4, Florida Administrative Code, Local policies approved by the Early Learning Coalition of Southwest Florida.
- VIII. **DEFINITIONS:**

“**Appellant**” is the individual who was the subject of the administrative action and has requested an appeal.

**“Contractor** refers to Community Coordinated Care for Children (4C) and Redlands Christian Migrant Association (VPK only).

**“Client”** refers to any individual who has made application, received benefits or services in either the school readiness or voluntary pre-kindergarten program in Lee, Collier, Hendry or Glades County.

**“Coalition”** or “coalition” means an early learning coalition created under s. 411.01, FS. And specifically refers to **“Early Learning Coalition of Southwest Florida, Inc. (ELC-SWF)**.

**“DCF”** refers to the Florida Department of Children and Families.

**“Early Learning Services”** refers to the provisions of school readiness and/or voluntary pre-kindergarten services in Lee, Collier, Hendry or Glades county

**“Eligibility Counselor”** – refers to any counselor with the responsibility of determining the eligibility of School Readiness or Voluntary Pre-Kindergarten applicants.

**“Executive Committee”** is composed of officers and the chairpersons of all committees. This committee serves as the Appeals Board to hear and decide appeals and administrative decisions.

**“Immediately”** – without interval of time, as soon as possible.

**“Parent”** means a parent by blood, marriage or adoption, legal guardian or person standing in loco parentis.

**“Preponderance of the evidence”** means the level of proof required to prevail. The executive committee must be persuaded that the facts are more probable one way than the other.

**“Provider”** means the individual or facility responsible for the provision of early learning services for children.

**“Reasonable”** means of sound judgment.

**“Reasonable Belief”** means that which any reasonable person, given the same set of circumstances or facts, would believe to be true.

**“School Readiness”** refers to the School Readiness Act in Chapter 411.01, F.S.

**“Subject”** refers to the individual identified as the applicant, client or provider whose interests have been affected.

“VPK” means Voluntary Pre-Kindergarten Education Program pursuant to Chapter 1002, Part V, Florida Statutes.

IX. **PROCEDURES:**

1. Any applicant, client, or early learning provider, who has been the subject of denial, suspension, termination, repayment of benefits, services, or participation in any early learning program, has a right to appeal the action and request a hearing.
2. The Coalition Executive Committee is composed of officers and the chairpersons of all committees. This Standing Committee serves as the Appeals Board to hear and decide appeals and administrative decisions in compliance with the Sunshine Law.
3. Prior to requesting a hearing, the appellant must have exhausted the complaint resolution process addressed in Coalition policy #ELCSWF-EL0013-08.
4. The appellant will have 10 business days from receipt of the final notification of the action from the Coalition CEO, to file a written appeal requesting a hearing before the Coalition Board Executive Committee.
5. The appellant's written appeal must be received in the Coalition office no later than the close of business on the 10th day.
6. Appeals are to be in writing. Any appellant wishing an appeal but unable to provide a written request, will be assisted by Coalition staff.
7. Requests for appeal must be mailed, faxed or hand delivered to the office of the Early Learning Coalition of Southwest Florida, 5256 Summerlin Commons Blvd., Suite 201, Fort Myers, Fla. 33907. If mailed, the postmark on the envelope must be stamped within the 10 business day time frame.
8. Within 10 business days of the receipt of request for appeal, the Coalition Chief Executive Officer or designee shall arrange a date, time and location for the Coalition Board Executive Committee to hear the subject's appeal.
9. The hearing date must be set within 30 calendar days of the receipt of the notice of appeal. The time and place shall be reasonable and may be changed for cause.
10. In the event the appellant is under investigation with the Inspector General, Florida Department of Law Enforcement or any other law enforcement or state regulatory agency, for issues related to the circumstance surrounding the appeal, the request for hearing will be suspended until the investigation is completed and any anticipated or pending judicial activity has reached resolution. Following the outcome, the appeal process continues.

11. The appellant and applicable parties will be given at least 5 calendar days advance notice of the date, time and location the Coalition Executive Committee will hear the matter.
12. Fifty-one percent (51%) of the voting members of the executive committee must be present, or available by telephone, and shall constitute a quorum for transaction of business.
13. The appellant has the right to have legal representation, or to be represented by a person of their choosing.
14. The hearing process will provide for a face-to-face hearing, but may be conducted by telephone or submission of written documentation evidence if the appellant so desires.
15. Once the appellant is notified of the hearing time and location, and fails to request a change of time or location, the committee will proceed whether the appellant is present or not.
16. The Coalition Executive Committee will consider all testimony, review all documents and may request any additional evidence or information from the parties if members of the committee believe it is necessary and relevant to decision-making.
17. The Coalition Executive Committee must make a final determination based on a preponderance of the evidence, and render a written decision within 30 days of the hearing, or the receipt of additional evidence requested by the committee, whichever is later.
18. The written decision, completed by the coalition Chairperson, will support, modify, revoke or change the original action by the Coalition CEO based on the factual representation of the matter.
19. The decision rendered by the Coalition Board Executive Committee will be final and binding.
20. A full report of any appeals and administrative decisions will be made to the Coalition Board by the Coalition Chair.