



Early Learning Coalition of Southwest Florida

Subject: Administrative Sanctions		
Suspected Fraud and/or Misrepresentation by Clients, Providers or Applicants		
<u>Policy #:</u> ELCSWF-EL0029-08	<u>Category:</u> Program Quality and Standards	<u>Reference #:</u> OEL-EL-220
<u>Approval:</u> 11/19/08	<u>Effective Date:</u> 11-19-08	<u>Replaces (policy # and date):</u> ELCSWF-EL0014-06 (1/25/06) Updated 9/25/07, 9/27/08

- I. **PURPOSE:** To establish a standardized policy and procedure for administrative sanctions of clients or providers who are the subject of suspected fraudulent activity.

- II. **REVIEW HISTORY:** This original policy was a part of ELCSWF Policy#EL0014-06 entitled Administrative Sanctions: Incorrect payments, Misrepresentations, Fraudulent Activity and Provider Non-Compliance (updated September 2007 and 2008). Section D of that policy has been removed and incorporated herein. This policy is established to work in tandem with other policies and replaces any previous written or verbal directives issued in any of the four counties.

- III. **CONTACT:** Chief Executive Officer.

- IV. **PERSONS AFFECTED:** All applicants and clients receiving School Readiness and/or Voluntary Pre-Kindergarten services, participating early learning providers; contracted central agencies and coalition staff.

- V. **POLICY:** This policy sets the process to handle situations of suspected misrepresentations and fraud referrals.

- VI. **RATIONALE:** To ensure a system of accountability for fiduciary responsibility of proper distribution of federal and state money.

- VII. **CROSS REFERENCES:** 45CFR98, Code of Federal Regulations; Chapter 411.01-243, 402.301-319, Chapter 1002.51-79, Florida Statutes; Rule 60BB-4 and 8, Florida Administrative Code, AWI policy # OEL – PI-0021-05, other policies approved by the Early Learning Coalition of Southwest Florida.

- VIII. **DEFINITIONS:**

“**Applicant** ” refers to any individual or Provider who has made application for benefits, services or participation in either the school readiness or voluntary pre-kindergarten program in Lee, Collier, Hendry or Glades Count

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

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

“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.

“Fraud” - Fraud is generally defined in the law as an intentional misrepresentation of known facts made by one person to another, while knowing the information is false and for the purpose of gaining an unfair or unlawful advantage; or causing injury or damage to others. Fraud may also be made by an omission or purposeful failure to provide material facts, which nondisclosure makes other statements misleading. To constitute fraud the misrepresentation or omission must be made knowingly and intentionally, not as a result of mistake or accident, or in negligent disregard of its truth or falsity. *(source: US Legal definitions.com)*

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

“Misrepresentation” refers to an untrue representation which is provided incorrectly, improperly, falsely or in a distorted manner. It can also be a purposeful twisting or emphasizing of certain information so as to produce an inaccurate or misleading impression. *(source: Webster's Revised Unabridged Dictionary, American Heritage Dictionary, Dictionary.com)*

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

“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.

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

IX. **PROCEDURES:**

A. General

1. If an applicant, client or provider is suspected of deliberately giving false, misleading or incorrect information, or failing to disclose significant information that could directly affect their eligibility for benefits or reimbursement, the following action must be promptly taken:

a. A brief written summary must be completed on ELC-Form 1031 "Suspected Misrepresentation/Fraud Alert" (incorporated by reference) with information, identifying details of the case such as:

1. Name of individuals
2. DOB and SS# of subject
3. Name and identifying data of others in case (i.e. children, significant others (i.e. DOB, SS# , relationship to subject, etc.)
4. Status (i.e. applicant, parent, provider, etc.)
5. Address, city and zip of residence
6. Brief statement of specific issue of concern and summary of factual information answering:
 - Who's involved?
 - What happened?
 - When and where did it occur?
 - How was it identified?
 - Projected amount of improper payments made.

b. The completed form and supporting documentation must be submitted to the Coalition CEO or designee within three (3) business days of identifying the case. Supporting documentation must include any documentation containing the inaccurate information and signed by the subject.

c. The Coalition CEO or designee will determine whether there is a reasonable belief to support the client, provider or applicant knowingly:

- Made a false or misleading statement to staff of the Coalition or Contractor,
- Misrepresented, concealed or withheld information.
- Altered or changed documents to obtain benefits to which the household was not entitled.
- Committed any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity.
- Caused in excess of \$750 of improper payments or benefits.

d. The Coalition CEO or designee will contact individuals who could support or dispute an allegation as necessary to determine the facts of the case. This may include contact with the client, parent, employers and/or child care provider.

f. The Coalition CEO or designee will also seek to establish the amount of improper payments and unauthorized time period payments were made.

e. If the Coalition CEO or designee can establish a reasonable belief and sufficient evidence to support a determination that the client or provider deliberately provided false information for personal gain or assisting others, the matter will be forwarded to the AWI Eligibility and Fraud Prevention Unit and law enforcement for further action.

B. Provider Fraud Actions

1. When fraud is suspected by a Provider of School Readiness and/or VPK services, the Coalition CEO or designee must make a determination based on the nature, extent and seriousness of the allegations on whether to:
 - a.) Suspend new enrollments
 - b.) Withhold any pending payments
2. The Coalition must immediately notify the provider if any of actions to be taken pending the completion of the investigation.
3. If after a thorough investigation, a Provider of School Readiness and/or VPK services, is found by a court of competent jurisdiction to have fraudulently misrepresented enrollment or attendance records, the provider will be permanently disengaged per Rule 60BB-4.503, FAC.

C. Overpayments Insufficient for Criminal Prosecution

1. For cases insufficient to meet that evidentiary or fiscal threshold for criminal prosecution, the Coalition CEO or designee is still required to proceed with recoupment efforts and other possible actions.
2. If a client, applicant or provider gives or omits information intended to mislead for purposes of receiving benefits or services that they were not eligible to receive, then the Coalition CEO or designee may one or more of the following actions:
 - a. Require repayment of any benefits or reimbursements.
 - b. Deny participation in the School Readiness or VPK Programs until all previous incorrect expenditures have been repaid in full.
 - c. Deny participation in the School Readiness program permanently.
 - d. Deny a provider participation in the VPK program permanently.
 - e. Deny participation in the School Readiness and/or VPK program for a set period of time no less than one year.
3. The Coalition CEO or designee will prepare a letter of correspondence to the applicant/client or provider advising them of the allegations, findings and decision.
4. In addition, the applicant, client or provider must be advised of their right to appeal and request a hearing as outlined in policy #ELCSWF-EL0015-06 "Appeals and Hearings".
5. Correspondence will be either hand-delivered or sent by regular U.S. mail and by certified mail, return receipt requested, simultaneously.
6. Copies of all correspondence must be placed in the client/provider file and noted in the EFS system, with a copy provided to the Coalition Chief Executive Officer.

7. No applicant/client or provider may re-apply for services or benefits unless repayment has been satisfied.

8. Sanctions may be permanent depending on the nature and extent of the misrepresentation.

9. Any SR or VPK Provider, who has provided false or misleading information for purposes of personal gain or would otherwise create a negative influence for participants of the early learning programs, may be denied payment, or dismissed at the discretion of the Chief Executive Officer of the Coalition.

10. In circumstances altering the Provider's relationship with the Coalition, a letter must be sent by certified mail, return receipt requested and US regular mail, that details the reasons for the change and the provider's right of appeal consistent with the process addressed in policy ELCSWF-EL0015-06 "Appeals and Hearings".

X. EXHIBITS:

Form ELC-1031 Suspected Misrepresentation Fraud Alert