
EXCEPTIONAL FAMILY RESOURCES
Policy and Procedure Manual

Topic: CORPORATE COMPLIANCE PLAN

Index #:

Relevant to Dept(s): All

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**Exceptional Family Resources
Corporate Compliance Plan**

I. POLICY: Our Commitment to Ethics and Compliance

Exceptional Family Resources (EFR) has created a Corporate Compliance plan in an effort to address issues of compliance and ensure strict adherence to all state and federal regulations. The plan will provide guidance to prevent and detect fraudulent, abusive, and wasteful practices with regard to the Medicaid program. The EFR Corporate Compliance Plan will target issues regarding billing actions and regulations regarding fraud, waste and/or abuse for all services. EFR's Corporate Compliance Plan seeks to demonstrate our commitment to operate with honesty, integrity and in the highest ethical manner at all levels of the organization. This plan was created based on the regulations as documented in the statutory guidelines cited below.

Statutory Guidelines

Deficit Reduction Act of 2005

Chapter 3 of the Deficit Reduction Act (DRA) includes several provisions intended to improve 'payment integrity' in the Medicaid program. Section 6032 requires health care organizations to specifically inform employees about the Federal False Claims Act, and similar state laws, and about the whistleblower protections incorporated into these laws. A summary of the relevant state and federal laws can be found on OMIG's web site: http://www.omig.ny.gov/images/stories/relevant_fca_statutes_122209.pdf

Federal False Claims Act.

The False Claims Act, 31 U.S.C. 3729-3733 *et seq.*, is a federal law designed to prevent and detect fraud, waste and abuse in federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act, anyone who "knowingly" submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of \$5,500 to \$11,000 for each false claim submitted. The False Claims Act is a federal law designed to prevent and detect fraud, waste and abuse in federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act, anyone who "knowingly" submits false claims to the Government is liable for damages. The federal administrative remedies for false claims and statements (31 USC 3601-3812) stipulate for up to three times the amount of the erroneous payment plus mandatory penalties of \$5,000 to \$10,000 for each false claim submitted. False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the Government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim. Some examples include: Knowingly making false statements; Falsifying records; Submitting claims for services never performed or items never furnished; Double-billing for items or services; Using false records or statements to avoid paying the Government; Falsifying time records used to bill Medicaid; or otherwise causing a false claim to be submitted.

The definition of “knowingly” includes a person who:

- Has actual knowledge of falsity of information in the claim
- Acts in deliberate ignorance of the truth or falsity of the information in the claim
- Acts in reckless disregard of the truth or falsity of the information in the claim

This legislation imposes liability on any person who submits a claim to the federal government that he/she knows (or should have known) is false.

Federal and State Whistleblower Protections, 31 USC § 3730(h) and NYS Finance Law § 191

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a “Qui Tam” or whistleblower provision.

1. Federal False Claims Act (31 U.S.C. §3730(h)) The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) 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).
2. New York State False Claim Act (State Finance Law §191) The New York State False Claim Act also provides protection to qui tam relators (individuals who commence a False Claims action) 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 Act.

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.

Health Insurance Portability and Accountability Act of 1996

This legislation was intended to enhance the privacy and security of medical information while streamlining the health insurance industry. It applies to all medical providers and insurance companies and all other entities with access to ‘protected health information.’ Medicaid has released the code sets to be used in New York State.

NYS False Claims Act, NYS Finance Law 187-194

The New York False Claims Act is similar to the Federal False Claims Act. It imposes penalties and fines upon individuals and entities who knowingly file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. It also has a provision regarding reverse false claims similar to the federal FCA such that a person or entity will be liable in those instances in which the person obtains money from a state or local government to which he may not be entitled, and then uses false statements or records in order to retain the money. The penalty for filing a false claim is six to twelve thousand dollars per claim plus three times the amount of the damages which the state or local government sustains because of the act of that person. In addition, a person who violates this act is liable for costs, including attorneys’ fees, of a civil action brought to recover any such penalty. The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by the NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover twenty-five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty-five percent if the government did participate in the suit.

NYS Medicaid Inspector General Act of 2006

This legislation (Chapter 442 §363-d) requires that medical assistance providers must have a corporate compliance program minimally applicable to billings to and payments from Medicaid. The law requires written policies and procedures, an employee designated with responsibility, staff training and open communication. It also requires systems for self-auditing and investigation. Employees are to be encouraged to participate in the corporate compliance program with policies both of non-retaliation for coming forward and disciplinary action for failing to do so.

EFR is proud of its commitment to ethical and responsible conduct. Each employee, member of the Board of Directors, volunteer, contractor or other agent of EFR (as applicable) is expected to adhere to this high standard of conduct whenever they act on behalf of EFR. This applies to dealings with other EFR employees, service recipients and their families, volunteers, vendors, government regulators and the general public. Violations of legal or ethical requirements jeopardize the welfare of the agency as a whole, EFR staff, and people with disabilities, as well as communities EFR serves.

The Executive Director has ultimate authority and responsibility for the implementation of this Corporate Compliance Plan. Specifically, the Executive Director has assigned compliance oversight responsibilities to individuals at both the supervisory and management level. A Corporate Compliance Officer has been designated who is vested with the day to day oversight and implementation of the Compliance Plan. This designated Corporate Compliance Officer reports to the Executive Director as well as having direct access to the Board of Directors. The Corporate Compliance Officer routinely reports directly to the Board of Directors on the activities of the Compliance Plan. A Services and Quality Assurance Committee of the Board of Directors has been established to review and evaluate issues pertaining to compliance and to monitor the quality of the services the agency provides. This committee consists of members of the Board of Directors, agency service Directors, the QA Manager, members of the community, the Executive Director and Compliance Officer. The Services and QA Committee meets minimally on a quarterly basis. The Executive Director (or designee per agency policy) in collaboration with the Compliance Officer shall have authority and responsibility for compliance with governmental laws and regulations, including taking all necessary and required actions to provide services of the highest quality possible; employing the highest ethical standards. These actions include ensuring accurate billings for people served; directing repayment when necessary; and reporting misconduct to enforcement authorities as appropriate.

Note: Unless otherwise stated, the term "employee" as used throughout this document refers to any regular, hourly, full- or part-time, on call, or temporary person. It includes relief staff and temporary hires.

Note: Unless otherwise specified, the term EFR representative refers to any employee, Board of Directors' member, volunteer, contractor or agent of EFR (as applicable).

Intent of the Corporate Compliance Plan:

- EFR's Corporate Compliance Plan is intended to assist individuals affected by these regulations to make the right choices when confronted with difficult situations. The compliance standards established in this plan impose requirements that are at times more exacting than those mandated by law, reflecting EFR's goal of conducting oneself with the highest level of integrity. The willingness of each EFR representative to raise ethical and legal concerns is essential. Ultimately, the responsibility for ethical behavior rests with each person exercising appropriate independent judgment. EFR's Corporate Compliance Plan serves to establish a climate that encourages good faith reporting of compliance issues, outline disciplinary policies for violations, outline a system for routine and on-going self-monitoring, auditing and identification of potential compliance risk areas and describe methods used to respond to and correct compliance issues when they arise. The compliance plan serves to ensure compliance with all applicable laws and includes the eight required elements of such a plan as established by the Office of the Medicaid Inspector General (OMIG).

1. Written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics;
2. Designation of an employee vested with responsibility for the day-to-day operation of the compliance program;
3. Training and education of all affected individuals on compliance issues expectations and the compliance program;
4. Communication lines to the compliance officer that are accessible to all affected individuals to allow compliance issues to be reported;
5. Disciplinary policies to encourage good faith in the compliance program;
6. System for routine identification of compliance risk areas and non-compliance;
7. System for responding to compliance issues when raised, for investigating and correcting problems;
8. Policy of non-intimidation and non-retaliation for good faith participation in the compliance program.

In effort to enact and comply with the eight required elements of the Corporate Compliance Plan, EFR will:

- Define the standards of conduct (hereinafter referred to as the "Compliance Standards of Conduct" or the "Compliance Standards") expected of EFR staff;
- Establish written policies and procedures that describe the compliance program (hereinafter referred to as the Compliance Policy/Plan) that serves as the foundation for compliance training and education of all affected employees, board members and any other persons associated with the agency when applicable;
- Provide guidance on how to resolve questions regarding legal and ethical issues;
- Identify a Medicaid Compliance Officer (herein referred to as the Compliance Officer);
- Establish a mechanism for reporting of possible violations of law or ethical principles within EFR including a method for staff to report concerns anonymously and confidentially;
- Describe methods used to respond to and correct compliance issues when they arise.

All EFR representatives must:

- Abide by the letter and spirit of all applicable laws and regulations.
- Act in accordance with the principle that full disclosure of all facts related to any activity will reflect favorably upon themselves and EFR.
- Adhere to the highest ethical standards of conduct in all business activities.
- Act in a manner that enhances EFR's partnership between persons with developmental or other disabilities, their families, agency staff, volunteers, and members.
- Consider the interests of the people we serve to be of primary importance in all that we do

To this end, EFR will promote relationships based on mutual trust and respect and provide an environment in which individuals may question a practice without fear of adverse consequences.

The appointment and retention of EFR employees, Board members (and other agents of EFR as appropriate) is contingent upon acceptance of and compliance with the Compliance Standards. It is expected that employees and outside colleagues, e.g., volunteers, vendors, consultants, interns and practicum students, and others whose actions could be attributed to EFR, will adhere to the compliance standards in their dealings with us and with others on our behalf. The Compliance Standards of Conduct, as described in this document, are intended to establish a framework for legal compliance by EFR, particularly compliance with federal and state laws on fraud, waste and abuse. The Compliance Standards of Conduct are intended to replace other compliance practices or rules and regulations as defined in EFR policies and procedures. Whenever a representative of EFR sees a situation that does not appear to comply with the Compliance Standards, that person has the responsibility to bring the concern to the attention of their supervisor or another responsible EFR management

employee with whom they feel comfortable. The option of reporting to any responsible EFR management employee applies to any situation or reporting requirement mentioned in these Compliance Standards. Reports can be made anonymously and confidentially, as described below. All concerns must be reported to the Compliance Officer or Executive Director either by the employee themselves or their supervisor in person, by phone, or in writing. Options for confidential reporting are described below in section III. An employee who has a question regarding the application or interpretation of the Compliance Standards should use the information and procedures specified in Section II & III of this document.

II. Our Mission, Values and Vision

Mission: Exceptional Family Resources (EFR) partners with individuals with disabilities and their families, providing services, information, advocacy and other supports to enhance lives and foster community acceptance.

CORE VALUES

- *We believe that each person has infinite value and is entitled to have his/her individual needs and visions respected and supported.*
- *We believe that, to the best of their abilities, families and people with disabilities should be empowered to be independent and self-advocates.*
- *We treat families, individuals, and colleagues with respect, dignity, and courtesy, appreciating their diversity.*
- *We strive to take creative and effective actions in response to the strengths and barriers encountered in individuals, families, funders, and society at large.*
- *We strive for open and honest communication to enhance trust and integrity in all of our interactions.*
- *We are committed to nurturing a workplace environment that values each individual's contribution and supports growth.*

VISION STATEMENT

- *We understand and support the mission of Exceptional Family Resources.*
- *We serve families to the best of our ability with the supports that are available.*
- *We respect and value the diversity of our staff, families and community.*
- *We respect the confidentiality and privacy of families and each other.*
- *We treat families and colleagues with respect, dignity and courtesy.*
- *We conduct ourselves in a professional manner.*
- *We work collaboratively.*
- *We act with integrity and honesty.*
- *We are actively engaged in enhancing the work environment*
- *We validate and appreciate individual and agency accomplishments.*
- *We work to be perceived by the community as providers of quality and efficient services.*
- *We believe that to the best of their abilities, families, and people with disabilities should be empowered to be independent and self-advocates.*
- *We earn trust every day by fulfilling commitments and abiding by the spirit as well as the vision of this statement. Exceptional Family Resources welcomes, as members of our staff, professionals who accept the same vision and commitment.*

Board of Directors Endorsement

The Board of Directors is committed to ensuring EFR's compliance with all applicable rules and laws which govern compliance. The Board of Directors has approved EFR's Corporate Compliance plan and have an active role in the oversight of the implementation of the Corporate Compliance plan. The Board of Directors' orientation process includes training about the corporate compliance program and the governing body's responsibility to ensure that the agency maintains proper procedures and documentation.

III. COMPLIANCE STANDARDS OF CONDUCT

If a person detects or suspects any improper activities on the part of an employee, board member, volunteer, contactor or agent of EFR (as applicable) or any person with whom EFR deals, that person must report this information immediately so that the appropriate investigation is initiated (see Section IV). Withholding knowledge of improper activities (i.e., failure to report) is a violation of the Compliance Standards. If evidence of a violation of these Compliance Standards is established, any involved EFR staff may be subject to disciplinary action up to and including dismissal, consistent with the applicable agency policies. Any founded violations will be reviewed by the Compliance Officer, Executive Director, and when appropriate, legal counsel. There are seven areas to which mandatory compliance programs must be applicable. The specific areas are billings; payments; medical necessity and quality of care; governance; mandatory reporting; credentialing; and other risk areas that are, or should, with due diligence be identified. EFR's practices addressing these mandatory areas of the compliance plan are described in the sections below.

EFR employees, Board members, volunteers, and agents of EFR as appropriate, are expected to:

A. Refrain from Misrepresentations - EFR employees, Board members (and agents of EFR as appropriate) must report and record all information accurately, completely, and honestly in all cases, including, but not limited to service recipient records, requests for payment, timesheets, financial reports, marketing materials, etc.

B. Submit Accurate Claim Submissions and Financial Reports

- 1. Billing/Claim Submissions** - Claim submission activities are to be performed in a manner consistent with Medicare, Medicaid, Office for People With Developmental Disabilities (OPWDD), Department of Mental Health, Onondaga County, State Education Department, and other payers' regulations and requirements, listed here or not. EFR will comply with all pertinent regulations in its claim submission practices, including but not limited to, specific program requirements, procedure codes, bad debt reporting, medical necessity, credit balances, and duplicate billing. EFR also prohibits several practices related to claims such as false statements, mail fraud, wire fraud, or a conspiracy to commit fraud. It is the continuing goal of all EFR employees participating in claims submission to comply with all established legal and regulatory mandates.

Services will be delivered in accordance with an individual's plan, but EFR will not necessarily bill each day of service. Reasons which may result in holding or voiding a billing claim include but are not limited to:

- Incomplete/Insufficient information in Individualized Service Plan (ISP)
- No documentation of service
- Illegible daily documentation
- Daily documentation that does not indicate required services were delivered

- Evidence of double billing not allowed by regulation
- Failure to follow necessary level of documentation standards

2. **Reporting** - The Consolidated Fiscal Report and other external reporting documents will be prepared in compliance with all applicable regulations and reflect accurate information of EFR. Claim submissions and cost reporting will be subject to internal and/or external audit to ensure errors are corrected in a timely fashion.

Employees shall knowingly:

- Submit service documentation in an accurate, complete and timely manner;
- Correct errors per agency policy which includes a single line though, signature and date of the change;
- Make modifications to documentation in an honest and transparent manner;
- Document only services that they delivered and directly provide;
- Complete documentation contemporaneously with the provision of the service;
- Act in a manner to conserve agency resources and avoid wasteful or excessive behavior;
- Report any suspected violations pertaining to billing and claims to a supervisor or the Compliance Officer using reporting methods described in this plan.

When submitting any claim, the following conduct is *unacceptable* by EFR employees (includes billing service recipients, third party payers or others, including Medicaid). They shall not knowingly:

- Make a false statement of fact for use in determining rights to a benefit or payment or in any application for payment or benefit. False entries may not be made in any of the agency's records or in any public record for any reason;
- Conceal or fail to disclose an event affecting a right to a benefit or payment with the intent to fraudulently secure the benefit or payment in an amount greater than is due or when no such benefit is authorized;
- Convert a benefit or payment for a use other than for the use of the person in whose name the application for the benefit was made;
- Request a payment in violation of the terms of an assignment or an agreement with the payer;
- Claim, charge, accept, or receive any payments for Medicaid services rendered unless they are medically necessary or described in the ISP and/or are billed according to applicable regulations;
- Bill for goods or services that were not rendered or delivered, including but not limited to mileage and expenses.

In addition, all mandatory reports required by the agency including CFRs, Financials, 990s, tax forms (payroll, unemployment, disability), Consolidated Quarterly Reports, etc. will be submitted accurately and by the deadline required.

- C. **Ensure Proper Use of EFR Assets** - All employees, Board members (and agents of EFR as appropriate) must adhere to established internal controls over all areas of their responsibility to ensure the safeguarding of EFR's assets and the accuracy of records and reports. This responsibility applies to service recipient accounts, if any, as well as agency bank accounts. The established policies and procedures must be followed to assure the complete and accurate recording of all transactions. Employees, Board members (and agents of EFR as appropriate) must ensure that all records, for which they are responsible, are fully and accurately completed and maintained consistent with proper business

practices. The creation of fully accurate and complete records is a duty of each representative of the agency.

No payment or charge on behalf of EFR shall be approved, or made without adequate supporting documentation or with the intention or understanding that any part is to be used in any way other than described in the supporting documents. All vendor accounts must be disclosed and recorded. Proper authorization must be obtained before opening any new vendor account. Every payment must be recorded to EFR books promptly, accurately, and through normal financial reporting channels.

Vendors must be selected solely on their merits that include quality of product or service and price, in the best interest of EFR and in accordance with the NYCCR and any other applicable New York State requirements.

- D. Provide Services that are Deemed Medically Necessary and Meet Quality Standards:** EFR staff must ensure that individuals who receive services from EFR are eligible for a service, must warrant the service and the services provided meet the standards of quality set forth by various oversight entities. Services provided through the HCBS waiver must be authorized by the CNYDSO and allowable under Medicaid. Appropriate regulations and guidelines (such as the Key to the Waiver/ MSC Vendor Manual etc.) on quality standards must be followed and maintained. Services provided must be based on the person's ISP and in accordance with any applicable habilitation or other type of plan.

Medicaid Service Coordinators are responsible for obtaining the annual Level of Care Eligibility Determination (LCED) information from an individual's physician. This determination is expected to be kept updated and on file within the MSC agency and must be presented upon request to both EFR and external service provider agencies.

- E. Ensure Facility Certification** - EFR is certified by OPWDD and may be reviewed by other various regulatory and accreditation bodies. Through training provided, primarily by supervisors, each EFR staff is expected to be familiar with the basic regulations governing their area, to stay abreast of new developments, and to alert their supervisor to possible noncompliance. Questions regarding regulatory requirements should be referred to the department Director. EFR staff must not make false statements with respect to the conditions or operation of any program for participation in the Medicaid, or any other contract services program such as OPWDD. Agency representatives must not make false statements with respect to information regarding ownership and control of a facility or program.

- F. Credentialing/Background Checks** - EFR will ensure and is responsible for obtaining and verifying the credentials, certification, and/or licensure for any internal positions where regulations mandate a level of credentialing or certification/licensure of personnel. This includes verification of MSC past and current education and training. If there is a question as to the veracity of such documentation, additional information will be requested of the employee.

Background checks: EFR will use due care to employ individuals of the highest ethical standards, while maintaining compliance with all applicable laws. To this end, the agency will conduct background screening and verification in accordance with OPWDD requirements, NYS labor laws, agency policy and specific program requirements. Background checks for all new employees (and agents of EFR as appropriate) may include, but are not limited to Criminal Background Checks (CBC), State Central Registry (SCR) clearance, clean driving record and TB testing, based on the appropriate regulations and requirements for the position. EFR conducts exclusion screening of all current employees and applicants, as well as independent contractors (as appropriate), through both the NYS Department of Health website and the federal Office of Inspector General List of Excluded Individuals/entities web site.

- G. Ensure Fair Trade Practices** - EFR will comply with all laws pertaining to restraint of trade and unfair competition. Such laws generally forbid any kind of understanding or agreement, whether written or verbal, between competitors to fix or control fees for services or to engage in any other conduct that results in restraint of competition.

The following conduct is prohibited:

- Attempts to unlawfully monopolize the provision of services;
- Fixing or unlawfully controlling fees or prices, including setting unreasonably low fees or prices to drive or keep competitors out of the market;
- Unlawfully refusing to deal with, or to boycott, suppliers, third-party payers, or other providers;
- Participation in surveys among competitors regarding information on salaries, fees, etc., is permissible only if (1) multiple organizations participate in the survey; and (2) the information provided is not identifiable. Questions regarding trade practices should be directed to the Executive Director or Human Resources Manager.

- H. Prevent Unlawful Referrals and Kickbacks** - Federal and state laws specifically prohibit any form of kickback, bribe, or rebate made directly or indirectly, overtly or covertly, in cash or in kind, to induce the purchase, recommendation to purchase, or referral of any kind of services, healthcare goods, items paid for by the agency through any of its funding sources. The term "kickback: as defined in these statutes means the giving of remuneration, which is interpreted under the laws as "anything of value."

EFR must scrupulously avoid being either the offeror or the recipient of any improper inducement. EFR staff must refrain from acts which may be interpreted as:

- A personal offering of or request for personal remuneration of an improper inducement;
- Any suggestion that EFR, as a provider of services, offers an improper inducement to or from its vendors to influence decisions regarding the use of products paid for by Medicaid;
- Any suggestion that EFR, as a provider of services, offers an improper inducement to refer or recommend its service recipients to providers of goods and services paid for by Medicaid.

As a provider of services, EFR should not receive any improper inducement from its vendors to influence decision making regarding the use of particular products or the referral or recommendation of service recipients to other providers of goods and services paid for by the agency through any of its funding sources.

Any question concerning these statutes or any business arrangement subject to anti-kickback or anti-referral laws should be directed to the Executive Director or Human Resources Manager.

- I. Adhere to Tax-Exempt Requirements** – EFR is a tax-exempt entity. To comply with the applicable laws, EFR must operate for the benefit of the community and must avoid what the tax law calls “private inurement,” and “private benefit.” All non-tax exempt individuals or entities must pay fair market value for use of services or property and cannot use EFR’s tax exempt status to their personal benefit. Violation of the tax law can give rise to criminal penalties.

EFR sales tax exemption may be used only for legitimate EFR activities. Personal items cannot be purchased through EFR, even if EFR staff reimburses the agency. All appropriate taxes must be withheld from EFR staff wages.

- J. Prevent Inappropriate Gifts and Entertainment** – Giving or accepting gifts and entertainment can sometimes be construed as an attempt to influence the other party. No personal gifts can be offered or received if the action could raise a reasonable question concerning whether the gift was offered or received to influence a person in the exercise of proper business judgment, as stipulated in the Public Officers’ Law. One cannot provide or accept gifts of more than nominal value. (See New York State Ethics Commission Advisory NO. 08-01 for guidance.)
- K. Engage in Appropriate Fundraising** – Only fundraising or solicitation of funds that results in a benefit to EFR is permitted. Other fundraising events not related to the mission, goals, and mandates of EFR must be specifically authorized by the Executive Director or designee.

All fundraising and solicitation activities must be reported to and coordinated through the Executive Director and the Fundraising Committee of the Board of Directors. In this way, conflict is avoided among fundraising efforts while donor solicitation is facilitated and relationships with potential donors are fostered.

- L. Ensure Security of Resources** – When acting as an employee of EFR, staff must not take, convert, consume or use property, services, or funds belonging to EFR or any company or private person or service recipient for personal use without the owner’s consent or proper authorization. Borrowing money, property, or services from service recipients is strictly prohibited. This includes facilities, equipment, or property from personal or non-qualified employees.
- M. Commit To Fairness** – The principal rules governing employment and hiring, including examinations, appointments, promotions, transfers, reinstatements, etc., are contained in EFR’s policy manuals including the EFR Employee Handbook.

All EFR staff and Board of Directors must abide by the rules, regulations, and policies of equal employment opportunity. Equal opportunity affects all employment practices.

We reaffirm the principle that all staff of EFR have the right to be free from discrimination, including sexual harassment, or discrimination against individuals who fall within any protected category or because of sexual orientation and treat such behavior as a form of misconduct. Sanctions are enforced against individuals engaging in such behavior.

Any EFR staff considering themselves to be victims of discrimination or harassment, may file a grievance in writing of the alleged discrimination act through the Executive Director. Individuals choosing to file a complaint within EFR, do not forfeit their right to file with outside enforcement agencies.

- N. Avoid Conflicts of Interest** – The EFR Conflict of Interest policies, are to be reviewed annually with the EFR Board of Directors and all EFR employees, in addition to this Corporate Compliance Plan. A perceived or potential conflict of interest arises if a person’s judgment and discretion is or may be influenced by personal or business considerations, or if the interests of EFR are jeopardized. EFR has a responsibility to preserve and enhance the public’s trust in government. The New York State Ethics Commission states that any violation of that trust reflects poorly on employees; and some violations can result in the loss of a job, a substantial fine, or criminal prosecution. In addition, EFR staff, contractors, volunteers or Board of Directors must promptly disclose any existing or new relationships that may give the appearance of a conflict of interest to the agency Executive Director.

Immediate family members will not directly supervise staff and/or report to each other.

To avoid the potential for conflict of interest or the appearance of a conflict, EFR will not employ relatives of Board Members. However, a Board Member may choose to step down to allow hiring. Further, employee relatives shall not participate in Board Committees which have any involvement in the function of an EFR employee.

Equipment, materials or propriety information owned by EFR should not be used for any outside employment purpose or personal use unless approved by the Executive Director.

Situations which present the appearance of a conflict of interest, or in which a conflict of interest exists should be avoided (e.g., if an employee owns a business and sells something to EFR). For more complete guidance on state policy for these types of issues: please refer to “New York State Ethics: A Guide to Public Law” and “New York State Public Officers Law ~ 73,74” both published by the New York State Ethics Commission.

- O. Comply with Labor and Employment Laws** – It is EFR’s policy to comply fully with all applicable labor laws and other statutes regulating the employer – employee relationship and the workplace environment. No EFR staff may interfere or retaliate against another agency staff who seeks to invoke his or her rights under those laws. Questions regarding the laws governing labor and employee relations may be referred to the Executive Director or Human Resources Manager.
- P. Comply with Immigration Requirements** – EFR hires only persons who are legally authorized to work in the United States consistent with federal law. Only prospective employees who are United States citizens or who possess the required documentation entitling them to work in the United States will be hired. The appropriate documentation of citizenship status must be presented at the time of hire. Questions on immigration issues should be referred to the Executive Director or Human Resources Manager.
- Q. Comply with Environmental, Health and Safety Requirements** – Both federal and state laws regarding the promotion of occupational safety and avoidance of job-related hazards are designated to ensure that all employees, contractors or volunteers work in a safe environment. Due regard and attention should be paid to those laws and regulations. If a potential or actual infringement of the laws and rules regarding occupational safety or unsafe working conditions is noted, it must be reported to the supervisor, who must take remedial action.
- R. Adhere to Research Grant Requirements** – All research grant proposals involving the people we serve must be submitted to a Human Rights Committee for review and approval following Part 633.

Researchers must be vigilant in considering whether grants could involve improper inducements for the referrals. If improper, referral practices could constitute “kickbacks” in violation of federal and state law. Any questions concerning whether the anti-kickback or other statutes may be involved in a research proposal should be directed to the Executive Director or Human Resources Manager.

- S. Ensure Appropriate Political Participation/Government Relations** – Federal and state laws prohibit organizations from contributing to political candidates or officeholders. Federal law states that no one will be reimbursed for personal political contributions. Personal compensation will not be altered in anyway, under any circumstances, to reflect such contributions. While EFR encourages EFR staff to participate in the American political process if they so desire, EFR staff must distinguish between personal and organizational political activities. Unless specifically requested by EFR to represent it before legislative or other governmental bodies, EFR staff must clearly label any personal communication with Legislators as their own beliefs. If contacted by legislators or regulators regarding EFR’s position on public issues, staff should refer them to the Executive Director. Any government

lobbying activities must comply with lobbying, ethical, and other applicable laws. To ensure full compliance with these laws and policies, it is expected that no EFR staff acting in their official capacity as EFR staff, will engage in advocacy activities regarding issues related to the mission of EFR without prior authorization from the Executive Director.

No EFR staff may provide or pay for meals, travel or lodging expenses for government representatives, and no EFR staff should entertain a public official without authorization from the Executive Director.

- T. Ensure Appropriate Use of EFR Information** – There are policies and procedures in place to protect individuals against misuse of information, including but not limited to those in place to comply with HIPAA. These policies must be followed.
- U. Information Owned by Others** – Disclosure of confidential information (e.g. software, data, reports) received from outside organizations for the benefit of EFR must not take place unless EFR and the other party have formally agreed to the terms of its use. If EFR staff have information in their possession that could possibly be confidential to a third party or may have restrictions placed on its use, they should consult with the Director. The Agency must approve a written agreement. Once obtained, EFR representatives must not use, copy, distribute, or disclose that information unless done in accordance with the terms of the agreement.

Software is an intellectual property protected by copyright laws and may also be protected by patent trade secret laws or as confidential information. The terms and conditions of such license agreements, such as provisions not to copy or distribute software, must be strictly followed. The exception is a copy for backup purposes. If you acquire software for your personally-owned equipment, you should not copy any part of such software in any work you do for EFR, place such software on any EFR-owned computer system, or generally bring such software onto EFR premises without the permission of the Executive Director.

- V. Government Investigations** – EFR must adhere to the following procedures to ensure EFR responds in a proper manner to all government investigations. Any EFR employee who is approached by any federal or state law enforcement agency seeking information about any aspect of the operations of EFR or the job-related activities of any of EFR officers or EFR staff should call the Executive Director or designee before releasing any information.

Some agencies are entitled by statute to immediate access to information. They include but are not limited to the Office of the Inspector General of the United States Department of Health and Human Services, the Office of the Medicaid Inspector General, New York State Medicaid Fraud Control Unit, New York State Department of Health, New York State Office for People with Developmental Disabilities, and United States Department of Homeland Security. Proper identification must be presented by officials of these agencies before access can be provided.

In all cases, when a request by personnel of these agencies is made, access to the requested information should be delayed pending notification of the Executive Director, whereupon access will be granted. Such notification should occur simultaneously with the requested access. Notification will ensure that the organization is aware of the inquiry, properly responds to it, and can take whatever action is necessary with regard to it. Under extraordinary circumstances only, access should not be delayed pending notification of the Executive Director or designee; however, notification should be made immediately thereafter.

Other governmental agencies may look at EFR documents and other materials only with EFR's consent or by proper legal process. To ensure that government agencies are provided with the information to

which they are entitled in a timely manner and at the same time to prevent the improper disclosure of private information, it is imperative that EFR staff contact the Executive Director, Compliance Officer, or Director as promptly as possible after receipt of, or compliance with, any request for information. In addition, please be certain to:

- Obtain the name and organizational affiliation of all persons from whom a request for access to information is received or to whom access is permitted before any access is allowed;
- Escort investigators at all times when on premises;
- Maintain a written record of each and every document to which access is given;
- EFR staff must copy each and every record that investigators request copies of and must maintain a copy of same for EFR records;
- Keep a detailed record of all oral, written, and electronic communications made, including specifically the name and affiliation of the parties to each conversation, the information requested, and the response given during the conversation.

Specific federal and state confidentiality laws relating to medical records and employee records may limit the general authority of government investigators. EFR should be certain that any disclosure of such records complies with the policies and procedures of EFR as well as with federal and state law.

IV. COMPLIANCE WITH THESE STANDARDS

- A. Training and Education** – Training on Compliance Standards as well as agency policy and procedures is provided to all EFR employees, as part of the agency-wide Orientation. In addition, Board Members, volunteers, interns’ practicum students, (contractors and other agents of EFR as applicable) whose actions could be attributed to EFR will receive training on these policies as appropriate to their position. These parties will complete documentation attesting that they have received, understand and will comply with these policies. Signed documentation will be maintained in the individual’s personnel/Volunteer/ Board Member file. Additional targeted training pertaining to roles and responsibilities of the position will be provided at the departmental level. The agency will continually identify and implement training topics, including those arising from internal or external audits or changes in regulatory requirements.
- B. Anonymous and Confidential Reporting** – Reports of compliance violations may be made anonymously and confidentially to the Compliance Officer or Executive Director by any person associated with the agency. Reports can be made in person, by phone (315-478-1462) or submitted in writing for confidential or anonymous review by addressing correspondence to “Compliance Officer” or “Executive Director,” marking as “confidential” and mailing or delivering to Exceptional Family Resources, 1820 Lemoyne Avenue, Syracuse, NY 13208.
- C. Internal/External Audits** – EFR participates in external audits of all services provided, conducted annually by OPWDD. EFR may also be audited by other oversight entities within the state and federal government. EFR conducts regular (monthly, quarterly, and annual) internal audits of all services provided. The Compliance Officer is responsible for working with department Supervisors and Directors to ensure compliance with all rules and regulations for billing and documentation as well as identifying areas for improvement.

EFR views audits as a means for continuous quality improvement and method for assessing potential risk areas. Auditing is one mechanism utilized to identify problems and prompt the agency to take corrective or preventative action. An agency wide Quality Assurance plan is in place that has been presented to the Board of Directors and is updated and reviewed annually by the Director of QA, the Compliance Officer and Board of Directors.

- D. Questions Regarding the Compliance Standards** – The Compliance Officer is responsible for the implementation of EFR’s Corporate Compliance Plan, including the Compliance Standards of Conduct. The Compliance Officer (and/or designee) will work with others within EFR, as necessary, with respect to elements of implementation, including training and enforcement of the Compliance Standards. EFR employees who have questions regarding the applicability or interpretation of Compliance Standards should direct questions to the Compliance Officer in person, in writing or by telephone. Written correspondence regarding Compliance Standards should be addressed to the Compliance Officer and be marked “CONFIDENTIAL.”
- E. Reporting of Suspected Violations** – EFR must investigate suspected violations. As a matter of policy, no EFR employee will be disciplined or subjected to retaliatory action because he or she has made a report in good faith. Employees, Board members (and agents of EFR as appropriate) are mandated to report suspected violations. Employees, Board members (and agents of EFR as appropriate) who fail to report or are not timely in reporting, are subject to disciplinary action. Where possible, the confidentiality of the EFR employee making the report will be protected. EFR employees, Board members (and agents of EFR as appropriate) at every level of agency operations are responsible for the detection and reporting of non-compliant behavior.

Reports of possible violations of law or ethical standards may be made to EFR staff member’s supervisor, who must report directly to the Compliance Officer, who may direct the completion of a report. If the Executive Director receives a report, it will be forwarded to the Compliance Officer immediately. The Compliance Officer will contact those deemed necessary. Persons who receive reports will initiate the appropriate notifications and course of action (e.g. inquiry, investigation, per established procedures). If the Compliance Officer is the subject of the possible violation, the report should be made to the Executive Director, who will not contact the Compliance Officer in this situation but will act in that capacity or designate someone to do so.

EFR employees, Board members (and agents of EFR as appropriate) need not be absolutely certain that a violation has occurred before making such a report; reasonable belief that a violation may have occurred is sufficient. EFR representatives are required to come forward either directly, or anonymously and confidentially with any such information, without regard to the identity or position of the suspected offender. Reports will be acted upon promptly, and the complainant will be notified of the result.

- F. Whistleblower Protection** – The support of all employees, volunteers, Board members and agents of EFR as appropriate, is necessary to achieving compliance with this plan and the laws and regulations it is based on. To that end, whistleblower protections must be in place per the Whistleblower provisions of the NYS and Federal False Claims Acts. An employee, board member, volunteer, contractor or agent of EFR (as applicable) is protected from retaliation including but not limited to intimidation, harassment, or discrimination if they allege unlawful activity, violation of compliance policy or improper practice or conduct, as described in this policy, and provides EFR with a reasonable opportunity to investigate and correct the alleged activity. The protection described below is afforded only to those that comply with this requirement.

EFR will not retaliate against an employee, volunteer, board member, contractor or agent of EFR (as applicable), who in good faith, has made a protest or raised a complaint against a practice of EFR, or of another individual or entity with whom EFR has had a business relationship, on the basis of a reasonable belief that the practice is in violation of law or a clear mandate of public policy.

EFR will also not retaliate against any employee, volunteer, board member, contractor or agent of EFR (as applicable), who discloses or threatens to disclose to a supervisor or public body any activity, policy

or practice of EFR that the person reasonably believes is a violation of law, a rule or regulation mandated pursuant to law or is in violation of a clear mandate or public policy.

To ensure whistleblower protections, the specific procedures are as follows:

1. The Whistleblower should promptly report the suspected or actual event to the Corporate Compliance Officer or his/her supervisor;
2. If the Whistleblower would be uncomfortable or otherwise reluctant to report to the Corporate Compliance Officer and/or his/her supervisor, then the Whistleblower should report the event to the Executive Director or an appropriate Board committee or member;
3. All persons who receive such reports shall take steps to preserve the confidentiality of the reporter, to the extent possible;
4. Regardless of who received the report, the Whistleblower should document each contact, including the date, time, and person(s) contacted in each instance;
5. The Whistleblower can report the event with his/her identity provided, or, remain anonymous;
6. The Whistleblower shall receive no retaliation or retribution for a report that was provided in good faith-that is; not done primarily with malice to damage another or the organization;
7. A Whistleblower who makes a report that is not done in good faith is subject to discipline, including termination of the Board or employee relationship, or other legal means to protect the reputation of the organization and members of its Board and staff;
8. Anyone who retaliates against the Whistleblower (who has reported an event in good faith) will be subject to discipline, including termination of Board or employee status;
9. Crimes against person or property, such as assault, rape, burglary, etc., should immediately be reported to local law enforcement;
10. Supervisors, managers and/or Board members who receive the reports must promptly act to investigate and/or resolve the issue;
11. The Whistleblower shall receive a report within 10 business days of the initial report, regarding the investigation, disposition or resolution of the issue;
12. Written investigation reports will be maintained by the Corporate Compliance Officer in a secure location;
13. If the investigation of a report, that was done in good faith and investigated by internal personnel, is not to the Whistleblower's satisfaction, then he/she retains the right to report the event to the appropriate legal or investigative agency;
14. The identity of the Whistleblower, if known, shall remain confidential to those persons directly involved in applying this policy, unless the issue requires investigation by law enforcement, in which case members of the organization are subject to subpoena;
15. The Compliance Officer shall oversee this policy and report at least annually to the Board of Directors and as appropriate, to the Executive Committee of the Board.

G. Investigation of Suspected Violations – All reported violations of the Compliance Standards will be promptly investigated by EFR and will be treated confidentially to the extent consistent with EFR's interests, and its legal obligations. If an investigation of an alleged violation is undertaken and the Compliance Officer believes the integrity of the investigation may be at stake because of the presence of EFR staff under investigation, EFR staff allegedly involved in the misconduct should be removed from his/her current work activity (administrative leave) until the investigation is completed. The decision to place on administrative leave is a joint decision of the Service Director and the Executive Director with input from the Corporate Compliance Officer. In addition, steps should be taken to prevent the destruction of documents or other evidence relevant to the investigation. It is the expectation that any EFR representative potentially involved (having information) in the circumstances of an alleged violation will fully participate and assist as needed/ requested in the resolution of the compliance issue(s). It is EFR's policy to cooperate with any internal, external or governmental investigation in

regard to the principles authorized in the Compliance Standards. EFR must act only with the advice of its legal counsel in these matters and as such, all cooperation with the government must be coordinated through the Compliance Officer. No EFR Program/Department is authorized to engage external consultants, auditors, or legal counsel in connection with compliance matters except with the review of the Compliance Officer and approval of the Executive Director and/or Board of Directors.

All investigative activity that results in a founded violation will be reported to the Executive Director and also to the Board of Directors.

H. Discipline for Violations

EFR Employees:

Any discipline of EFR employees shall be in accordance with the procedures outlined in EFR's personnel policies and the *Progressive Discipline for Compliance Issues Policy (draft)*.

EFR Board of Directors', volunteers, or other agents of EFR:

Any discipline of EFR Board of Directors', volunteers or other agents of EFR will be based on the guidelines established in the volunteer (including Board of Directors') or business agreements signed by such entities at the start of the volunteer or business relationship and the *Progressive Discipline for Compliance Issues Policy (draft)*.

Disciplinary actions may be taken for:

- Participating in behavior that violates the Compliance Standards
- Authorizing, encouraging, directing, facilitating or permitting either actively or passively non-compliant behavior
- Failure to report a violation of the Compliance Standards and/or cooperate in an investigation.
- Failure by a violator's supervisor(s) to detect and report a violation of the Compliance Standards if such failure reflects inadequate supervision or lack of oversight.
- Retaliation against an individual for reporting a violation or possible violation of the Compliance Standards.

Disciplinary action may result from failure to comply with the Corporate Compliance Plan and/or laws and regulations pertaining to EFR. It is the responsibility of the department Director, Executive Director and Human Resources Manager to determine an appropriate course of action based on the findings of the investigation. EFR will make every effort to fairly and consistently administer disciplinary procedures. Disciplinary action will be administered in accordance with our personnel handbook and may range from a verbal warning and retraining to a plan of corrective action or termination of employment, volunteer or business relationship, based on the circumstances of the offense.

- I. **Self-disclosure** – If an internal investigation or audit substantiates a violation of a compliance standard requiring self-disclosure per the guidelines of OMIG in effect at that time, appropriate governmental agencies including OPWDD and the OMIG will be contacted for further guidance. EFR will cooperate fully with any actions as a result of such disclosure, including restitution of overpayments. Circumstances requiring consideration of re-payment include but are not limited to overpayments due to:
- Substantial routine errors;
 - Systemic errors;
 - Patterns of errors;
 - Violation of fraud, waste and abuse laws.

- J. Prevention** – EFR maintains a system for correcting compliance problems promptly and thoroughly. Any substantiated violation of compliance standards will result in a systems review and implementation of appropriate system change to prevent a future reoccurrence. Any changes will be documented by the EFR Executive Director, Service Director, Director of Finance, QA Director or Manager, HR Manager, Corporate Compliance Officer or designated other as appropriate. EFR maintains an annual QA Work Plan as well as conducting internal and external audits to inform and improve internal processes and functions and respond to identified risk areas. EFR routinely utilizes a variety of systems to identify and respond to potential areas of compliance risk.

Compliance Contact Information

Compliance Officer
Lauren Johnson-Albaroni
(315) 478-1462 x331
lalbaroni@contactefr.org

Executive Director
David Wissink
(315) 478-1462 x313
dwissink@contactefr.org

For confidential reporting please send letter addressed to “Compliance Officer”
Exceptional Family Resources
1820 Lemoyne Avenue
Syracuse, NY 13208