



# **Notice of Posting**

## **Code of Conduct and Business Ethics and NYC Conflict of Interest Law**

Pursuant to a Certification Agreement that Birch entered into with the New York City Department of Investigation (DOI) on November 19, 2015, a copy of Birch's Code of Conduct and Business Ethics (the Code) and a copy of the New York City Conflict of Interest Law is hereby posted for review by all members of Birch's workforce and visitors at this location.

The Code reflects the core values of Birch Family Services and sets expectations for the conduct of all Directors, Officers, Key Persons, employees and contractors. The Code provides all such individuals and entities with guidance on refraining from, identifying and addressing all issues of non-compliance. The Code includes written policies and procedures that describe Birch's expectations for compliance.

The New York City Conflict of Interest Law outlines the responsibility to protect the integrity of public government and the public trust in the decisions made by public servants who make official decisions. The Conflict of Interest Law provides information on how to avoid engaging in activity that may lead to a conflict of interest, how to report potential conflicts of interest and penalties for violating this Law.

If you have any questions about the Code or the NYC Conflict of Interest Law, please contact:

Eileen Berg  
Birch Family Services  
Compliance Officer  
104 West 29<sup>th</sup> Street, Third Floor  
New York, NY 10001  
(212) 616-1802



Empowering People. Building Futures.

# CODE OF CONDUCT AND BUSINESS ETHICS

February, 2021

*The Code of Conduct and Business Ethics may be revised by Birch Family Services, at any time, to comply with changes in federal, state and local laws or to comport with guidance provided by regulatory oversight agencies. Changes to the Code will be shared with all members of Birch's workforce within 30 days of approval by the Board of Directors.*



## CODE OF CONDUCT AND BUSINESS ETHICS

Birch Family Services hereby establishes its standards for business conduct in this Code of Conduct and Business Ethics, hereinafter the “Code,” a document that reflects our core values and sets expectations for the conduct of our Board of Directors, employees and contractors. The Code provides the necessary context within which all members of our organization should function—a context that reflects duties each individual owes to Birch Family Services, its funders, and donors, and the children, adults, and families Birch supports. Additionally, the Code provides guidance on addressing compliance issues through clear written policies and procedures that describe compliance expectations.

Throughout the Code, you will find references to Birch’s policies and procedures that provide additional explanation regarding our ethical expectations. The Code is intended to elaborate upon and supplement, but not replace, any obligations that otherwise exist under law or regulation, as well as under the policies and procedures of applicable governmental agencies and Birch Family Services, as provided in Birch Family Services’ employee handbook, compliance policies or other statements.

The Code is designed to be clear, non-technical and easily understood to enhance its effectiveness. It shall be approved by the Board of Directors of Birch Family Services and reviewed annually thereafter to determine what, if any, modifications or changes are necessary to assure its continued effectiveness.

Birch Family Services is committed to preventing the occurrence of unethical or unlawful behavior, stopping such behavior as soon as possible after discovery, and disciplining employees or removing members of the Board of Directors who violate the Code, including those who neglect to report a violation. In addition, Birch will terminate its agreements with any contractor who violates any terms of the Code or fails to report violations of the Code.

All members of the Board of Directors, employees and contractors must comply with the Code, immediately report any alleged violations of wrongdoing, and assist management and compliance personnel in investigating allegations of wrongdoing.

Birch Family Services is committed to conducting all of its affairs in accordance with applicable federal, state and local laws and regulations and complying with the terms of its contracts for the provision of programs and services. To accomplish this, all employees and contractors must obey the laws and regulations that govern their work and always act in the best interest of the people supported, their families and Birch.

Members of the Board of Directors, employees and contractors are expected to:

- Document and record all services or transactions accurately;
- Be honest and forthcoming with Birch, regulatory agencies, and internal and external auditors;
- Comply with Birch’s policies and procedures, accounting rules and internal controls; and,
- Function with honesty in all work for Birch and with people supported by Birch, providers, suppliers and all others with whom Birch does business.

The agency and its personnel access many resources to keep abreast of changing requirements and amendments to laws and regulations that have an impact on service quality, agency functioning, and procedures, including, but not limited to, the following:

- Membership in professional organizations such as:
  - Interagency Council of Developmental Disabilities Agencies (IAC)
  - Day Care Council of New York
  - Health Care Compliance Association (HCCA)
  - American Institute of Certified Public Accountants (AICPA)
  - Financial Management Association (FMA)
  - American Speech-Language and Hearing Association (ASHA)
  - National Association of Social Workers (NASW)
  - Society for Human Resource Management (SHRM)
- Frequent review and analysis of material posted on critical websites, such as:
  - New York State Office of the Medicaid Inspector General
  - New York State Office of the State Comptroller
  - New York State Education Department (Special Education, ACCES-VR, Office of the Professions, and Office of Teaching Initiatives)
  - New York City Department of Education (e.g. Office of Auditor General, Special Education, UPK)
  - New York City Department of Health and Mental Hygiene
  - New York City Office of the Comptroller
  - New York State Office of People with Developmental Disabilities
  - US Department of Health and Human Services (Office of Head Start, Office of Civil Rights)
- Participation in meetings and training sessions sponsored or conducted by funding sources and regulatory agencies.
- Thoughtful review of internal and external audit and review findings of both Birch Family Services and, as available, other agencies.
- Consultation with qualified legal and accounting professionals.
- Review of resources provided by independent consultants.
- Attendance at professional conferences and workshops.

Birch Family Services' ability to meet its obligation to embody legality in all of its actions is directly related to our active participation in the community of services providers and our attentiveness to the extensive body of literature and information available.

Birch Family Services views this continual review and analysis of resources and information as the mechanism to remain current as to issues of quality services provision; identify potential risk areas; and continually improve our practices, policies, procedures and internal controls based on a clear and comprehensive understanding of emerging requirements, standards of best practice, and recent trends in the fields of service in which we participate.

Birch will:

- Foster an environment where the Board of Directors, employees and contractors feel comfortable discussing ethics issues;
- Promptly respond to requests for guidance and reports of misconduct, and engage other resources as needed;
- Administer appropriate disciplinary action if misconduct is substantiated; and,
- Ensure that Board of Directors, employees & contractors receive annual training on the Code.

Members of the Board of Directors, employees and contractors must:

- Commit to being honest, transparent, fair and trustworthy in all work-related activities and relationships;
- Report actual or suspected violations of the Code and all forms of ethical misconduct, including falsification, fraud, waste of resources, abuse of resources, retaliation, conflicts of interest, collusion, bribery and other criminal acts;
- When unclear about what to do, seek advice from the Compliance Officer (“CO”);
- Cooperate with Birch’s investigations by providing complete and truthful information and related documentation; and,
- Complete initial and annual compliance training on the Code.

### **Reporting Misconduct**

All suspected or actual violations of the Code must be reported to the:

#### **Compliance Officer, Eileen Berg**

**Telephone:** (212) 616-1802

**E-mail:** [Eileen.Berg@birchfamilyservices.org](mailto:Eileen.Berg@birchfamilyservices.org) (must include company name with report “Birch Family Services”)

#### **Anonymous Compliance Hotline**

**Toll-free Telephone:** (844) 450-0003 – English  
(800) 216-1288 – Spanish  
(855) 725-0002 – French

**Website:** [www.lighthouse-services.com/birchfamilyservices](http://www.lighthouse-services.com/birchfamilyservices)

**E-mail:** [reports@lighthouse-services.com](mailto:reports@lighthouse-services.com) (must include company name with report “Birch Family Services”)

**Fax:** (215) 689-3885 (must include company name with report “Birch Family Services”)

**On-site Hotline:** (212) 616-1804

### **Response to Suspected Violations**

A well-articulated process of response to compliance issues is essential to assuring compliance with the applicable policies, laws and rules and regulations, whether such issues are raised by individuals supported by Birch or identified in the course of self-evaluations and audits. Accordingly, Birch Family Services has developed the following policies and procedures to assure that compliance concerns are corrected promptly and thoroughly and that policies and procedures are adjusted and modified to prevent any re- occurrence.

1. Upon receiving a report from any source as to suspected or actual violation of law, regulation or the Plan, the CO shall conduct such investigation as he/she shall deem necessary in order to determine whether the report is accurate or not. The CO may involve the CEO in designing such investigation and/or securing the resources necessary to conduct such investigation, if deemed appropriate by the CO. In the event involvement of the CEO would create or exacerbate any potential or actual conflict of interest in judgment of the CO, the CO may instead seek the involvement of the Chair of the Board.

2. The CO and the CEO (unless the CEO is a subject of the investigation), shall promptly report to and advise the Board about any matter that, if founded, may require disclosure to any government agency.
3. The confidentiality and anonymity of any individual filing a report pursuant to the plan shall be safeguarded to the maximum degree reasonably feasible subject to the obligations imposed by the Plan.
4. At the conclusion of such investigation, the CO shall render a determination in writing as to whether such reported violation has been substantiated or not. Such report shall also include the following information from the CO:
  - a) A statement of any steps required to remediate any consequences of any substantiated violation; and
  - b) A recommendation as to any modifications to Birch Family Services' policies and/or procedures that should be made to prevent the recurrence of any substantiated violation.
5. The CO shall present such written determination to the CEO (or to the Chair of the Board if the CEO is a subject of the written determination).
6. The CO and the CEO (or Chair of the Board if the CEO is a subject of the investigation) shall determine whether any further disclosures are warranted, including, but not limited to, disclosures to government agencies.

### **Conflict of Interest Policy**

All Members of the Board of Directors, employees and contractors of Birch have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest.

The Agency's conflict of interest policy is established to protect the interests of the Agency when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a member of the Board of Directors, employee or contractor, and to ensure that services and business activities of the Agency are conducted in an objective manner and are not motivated by desire for personal or financial gain. The Agency will not enter into any such transaction or arrangement unless it is determined by the Board in the manner described below to be fair, reasonable and in the best interests of the Agency at the time of such determination.

1. For purposes of this conflict of interest policy, a "Key Employee" is any person, including present or future directors, officers, or who has within the last five (5) years, been in a position to exercise substantial influence over the affairs of the Agency. This includes, but is not limited to: (i) voting Members of the Board; (ii) Presidents, Chief Executive Officers, Chief Operating Officers or employees of any other title with similar responsibilities; (iii) Treasurers and Chief Financial Officers or employees of any other title with similar responsibilities; or (iv) a "highly compensated" employee, within the meaning of section 4958 of the Internal Revenue Code and guidance issued by the Internal Revenue Service, who is in a position to exercise substantial influence over the affairs of the Agency.
2. *Conflict of Interest*: Any situation in which financial or other personal considerations may compromise or appear to compromise (1) a member of the Board of Directors, employee or contractor's business judgment; (2) delivery of services; or (3) ability for a member of the Board of Directors, employee or contractor to do his or her job (a "Conflict of Interest"). An actual or potential Conflict of Interest occurs when a member of the Board of Directors, employee or contractor is influenced in his or her decision by, or put in a position to influence a decision that may result in, a personal or financial gain for that Member of the Board of Directors, employee or contractor, or for a Relative as a result of business dealings. For the purpose of this policy, a "Relative" of any person means his or her (i) spouse, ancestors, brothers and sisters (whether whole, half-blood or adopted), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren, and the children of brothers and sisters, or

(ii) domestic partner as defined in section 2994-A of the Public Health Law.

3. Business dealings with outside entities must not result in *unusual gain* for those entities, Birch, members of the Board of Directors, employees or contractors. Unusual gain refers to any payment, gifts, gratuity, bribes, travel, services, accommodations, entertainment, product bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit the Agency, members of the Board of Directors, employees or contractors, or that would reasonably be determined to influence the Agency, members of the Board of Directors, employees or contractors.
4. The materials, products, designs, plans, ideas, and data are the property of the Agency and must never be given to an outside firm or individual except through normal channels with appropriate prior authorization. Any improper transfer of material or disclosure of information, even though it is not apparent that any member of the Board of Directors, employee or contractor has personally gained by such action, is prohibited.

### **Conflict of Interest Procedures**

1. The Board of Directors has appointed a Compliance Officer to whom any questions or concerns about a potential or actual Conflict of Interest shall be raised.
2. Any individual with questions or concerns about a potential or actual Conflict of Interest shall promptly address the issue with the appropriate management personnel, human resources staff, and the Compliance Officer and shall complete a Conflict of Interest Disclosure Form (Appendix A to this Conflict of Interest Policy) to report any potential or actual Conflict of Interest.
3. The appropriate management and/or human resources personnel and the Compliance Officer will document the facts pertaining to such potential or actual Conflict of Interest and create an initial evaluation of the potential or actual Conflict of Interest. The Compliance Officer will then make prompt disclosure of the facts and an evaluation of such potential or actual Conflict of Interest to the Chair of the Audit Committee.
4. If the Compliance Officer is the individual involved in any potential or actual Conflict of Interest, then all of the procedures set forth in this section (“Conflict of Interest Procedures”) shall be handled by the Members of the Audit Committee and references in these Conflict of Interest Procedures to the Compliance Officer in those circumstances shall refer to the Members of the Audit Committee.
5. Upon a determination by the Compliance Officer and/or the Chair of the Audit Committee of the existence of a Conflict of Interest, the relevant Board Committee (The Audit Committee) shall meet to deliberate and make recommendations to the Board of Directors on the matter giving rise to such Conflict of Interest as well as how to handle such Conflict of Interest. The individual(s) involved in such Conflict of Interest shall be prohibited from being present at, or participating in, any such deliberation or vote on the matter giving rise to such Conflict of Interest. Furthermore, the individual(s) involved in such Conflict of Interest shall be prohibited against any attempt to improperly influence the deliberations, actions or vote on the matter giving rise to such Conflict of Interest. Any attempt to improperly influence deliberations, actions or voting on any matter with which such individual has a Conflict of Interest may be grounds for removal from the Board of Directors or termination from employment by the Agency.
6. Members of the Board of Directors, employees and contractors must disclose any potential Conflict of Interest upon initial hire or appointment and whenever a potential or actual Conflict of Interest arises.
7. Members of management, Key Employees, Officers and Board of Directors are required to complete a Conflict of Interest Disclosure Statement annually. The Compliance Officer will be responsible for ensuring that Members of management and all Key Employees, Officers and Board of Directors will complete a Conflict of Interest Disclosure Statement annually.

8. Members of the Board of Directors, employees and contractors must seek guidance and approval from appropriate management personnel prior to pursuing any business or personal activity that may constitute a Conflict of Interest and must make a disclosure of any potential business or personal activity that may constitute a Conflict of Interest to the Compliance Officer, or other Members of the Audit Committee in the event that the Compliance Officer is the individual engaging in such potential business or personal activity that may constitute a Conflict of Interest.
9. Outside employment may not interfere with an employee's ability to perform his or her job with Birch. In addition, Agency employees may not engage in any activities that may conflict with Birch activities or service provision.
10. The Compliance Officer will investigate any violations of this policy and promptly report his or her findings to the Board of Directors.

### **Related Party Transactions**

1. Any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which the Agency or any affiliate of the Agency is a participant, shall be deemed a "Related Party Transaction." Any Related Party Transaction will be considered a conflict of interest for purposes of the Birch Conflict of Interest Policy. Notwithstanding the foregoing, so long as (i) all Directors, Officers and Key Employees who have an interest in the Related Party Transaction promptly disclose all material facts of such interest to the Board of Directors, (ii) such interested Directors, Officers or Key Employees do not participate in the deliberation of, or vote on, the Related Party Transaction (although Related Parties are not prohibited from providing information regarding the transaction to the Independent Directors of the Board prior to such deliberation or voting) and the Board of Directors authorizing such Related Party Transaction can do so by a vote sufficient for such purpose without counting the votes of such interested Directors, Key Employees or Officers who are also a Related Party, and (iii) the Independent Directors of the Board determine that the Related Party Transaction is fair, reasonable and in the Agency's best interest, then a Related Party Transaction will not be a prohibited transaction.
2. If a Related Party Transaction involves a Related Party who has a substantial Financial Interest, in addition to items (i)-(iii) of section 1 above, the Independent Directors of the Board must also (i) consider alternative transactions, to the extent available, prior to entering into such Related Party Transaction, (ii) approve the Related Party Transaction by not less than a majority vote of the Independent Directors, or the full Board of Directors if the Related Party Transaction involves a Board Member and (iii) contemporaneously with any such vote of approval, document the basis for such approval in writing, including the alternative transactions considered. When considering potential alternative transactions, items to be considered include, but are not limited to: (a) compensation levels paid by similarly situated organizations, both exempt and non-exempt; (b) the availability of similar services within the same geographic area; (c) current compensation surveys compiled by independent firms; and (d) written offers from similar institutions competing for the same person's services. When a Related Party Transaction involves the transfer of real property as consideration, some additional relevant factors may include, but are not limited to (i) current independent appraisals of the property, and (ii) offers received in a competitive bidding process.
3. No Director, Officer or Key Employee shall vote, act, or attempt to influence improperly the deliberations on any matter in which he or she has been determined by the Board to have a Financial Interest. Any attempt to vote, act, or improperly influence deliberations by a Related Party on any matter with which such person has a Financial Interest may be grounds for removal from the Board or termination from the Agency.
4. For purposes of this policy, a "Related Party" includes the following: (i) Directors, Officers, or Key Employees of the Agency or an affiliate of the Agency; (ii) Relatives of Key Employees, Officers



of Directors of the Agency or any affiliate of the Agency; (iii) any entity in which a person in (i) or (ii) has a 10% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%; (iv) founders of the Agency; (v) substantial contributors to the Agency (within the current fiscal year or the past five fiscal years); (vi) persons owning a controlling interest (through votes or value) in the Agency; and (vii) any non-stock entity controlled by one or more Key Employees. A Related Party will be deemed to have a “Financial Interest” if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or other arrangement involving the Agency.

### **Delegation of Audit Committee Review**

1. The Board of Directors may delegate the adoption, implementation of and compliance with this Conflict of Interest Policy to the Audit Committee, which shall be composed solely of Independent Directors. The Board may delegate to the Audit Committee review and approval of any Conflict of Interest, or any Related Party Transaction involving a Related Party and the Agency, as contained in this Conflict of Interest Policy; provided that if the Conflict of Interest or Related Party Transaction is of a magnitude that would otherwise require full Board approval, the Audit Committee shall submit the Conflict of Interest or Related Party Transaction to the Board for consideration and to offer its recommendation as to approval or rejection.
2. In the event the Board delegates the review and approval of Conflicts of Interest or Related Party Transactions to the Audit Committee, all references to Board in this Conflict of Interest Policy shall be deemed to refer to the Audit Committee and all references to a majority of the Board shall be deemed to refer to a majority of the Audit Committee.

### **Records of Proceedings**

The minutes of all meetings of the Board of Directors (or all Audit Committee meetings, if applicable) at which any Conflict of Interest or Related Party Transaction is considered shall contain:

- The names of the persons who disclosed or otherwise were determined to have a potential or actual Financial Interest and/or Conflict of Interest, the nature of the potential or actual Financial Interest and/or Conflict of Interest, any action taken to determine whether a Financial Interest or Conflict of Interest exists, and the Board’s (or Audit Committee, if applicable) decision as to whether a Financial Interest and/or Conflict of Interest exists.
- The names of the persons who were present for discussions and votes relating to any determinations made about such Related Party Transaction or Conflict of Interest, including whether the Related Party or individual involved in the potential or actual Conflict of Interest, and any Members not considered to be Independent Directors, left the room during any such discussions, the content of such discussions, including discussion of alternative transactions, and whether or not the transaction with the Related Party or Conflict of Interest was approved or cleared by the Board (or Audit Committee, if applicable).
- The minutes of the Board meeting (or Audit Committee meeting, if applicable) shall be documented contemporaneously to the decision and discussion regarding the Financial Interest or Conflict of Interest.

## **Initial and Annual Written Disclosures**

1. Prior to a Director's initial election to the Board, or an Officer or Key Employee's employment at the Agency, and thereafter on an annual basis, all Directors, Officers, and Key Employees shall disclose in writing to the CO of the Agency: (i) any entity of which such person or a Relative of such person is an Officer, Director, Trustee, Member, owner, or employee and with which the Agency has a relationship, (ii) any Financial Interest such person may have in any corporation, organization, partnership or other entity which provides professional or other goods or services to Agency for a fee or other compensation, and (iii) any position or other material relationship such Director, Officer, Key Employee, or Relative of such person, may have with any not-for-profit corporation with which the Agency has a business relationship. A copy of each disclosure statement shall be kept in the Agency's files by the CO and made available to any Director, Officer, or Key Employee upon request.
2. Each Director, Officer, and Key Employee shall annually sign and submit to the CO of the Agency a statement which affirms such person: (a) has received a copy of this Conflict of Interest Policy, (b) has read and understands the Conflict of Interest Policy, and (c) has agreed to comply with the Conflict of Interest Policy in all material respects.

## **Zero Tolerance Policy**

Birch does not participate in unfair or corrupt business practices and has zero tolerance for fraud, waste of resources, abuse of resources, bribery, collusion or other unethical conduct. Accordingly, Birch prohibits members of the Board of Directors, employees or contractors from:

- Intentionally falsifying or filing, furnishing, or otherwise submitting any business records, statements, or instruments, whether written or oral, to any city, state or federal agency or employee, public authority or private business and from devising or conspiring with another to devise a scheme to defraud a government agency, in contravention of any federal, state or local laws, regulations or rules.
- Giving, or offering to give money, gratuities, or any other benefit to a labor official, including, but not limited to an official in a labor organization that has represented, represents, or may represent Birch's employees.
- Giving, or offering to give money, gratuities, or any other benefit to any public servant, including, but not limited to a public servant who is a federal, state or local employee or official of a political subdivision or governmental entity with which Birch currently conducts, has conducted, or may conduct business; except that this provision is not intended to infringe upon any person or entity's right to make political contributions.
- Soliciting participation from, exert pressure on, or offer any inducement to other members of Birch's Board of Directors, employees or contractors to participate in political activities or make any political contribution.
- Using Birch funds, facilities, or assets for contributions to political campaigns or political parties. Members of the Birch's Board of Directors, employees or contractors may participate in political activities only in their individual capacities.
- Directly or indirectly using their participation in political activities or making political contributions as a means to obtain for Birch any federal, state, or local government contract or to obtain any personal benefit from such a contract.

- Soliciting or accepting personal kickbacks, rebates or any form of “under-the-table” payment, either directly or indirectly, including cash payments, services or any item of value which may be intended to influence the actions of any employee of Birch.
- Making, attempting to make, or executing any agreement that seeks, or participate in any scheme, to rig bids, restrain trade by collusion or unfair trade or labor practices, or prevent the lowest responsible bidder from obtaining a contract.
- Knowingly engaging in any conduct that will cause or assist New York City employees to violate the City’s Conflict of Interest Laws, which are contained in New York City Charter Chapter 68 and the Rules of the New York City Conflicts of Interest Board.
- Committing any fraud or filing or making any knowingly false or fraudulent reports, statements, or representations, in connection with their compliance with any federal, state or local law, rule or regulation or contract requirement.

**Whistleblower Non-Retaliation/ Non-Intimidation Policy**

Birch has created a policy of non-intimidation and non-retaliation to protect members of the Board of Directors, employees and contractors who make good faith reports of unethical acts as indicated in the Code. Birch, members of its Board of Directors, employees and contractors are prohibited from intimidating or retaliating in any way against any individual acting in accordance with the Code. Consistent with the provisions of sections 740 and 741 of New York State Labor Law and section 12-113 of the New York City Administrative Code, no member of the Board of Directors, employee or contractors of Birch may take any retaliation action against a member of its Board of Directors, employee or contractor because such individual:

- Discloses or threatens to disclose to a supervisor or a public body an activity, policy or practice of Birch Family Services that is in violation of law, rule or regulation which creates and presents a substantial and specific danger to public health or safety, which constitutes health care fraud, or which otherwise constitutes improper quality of care provided for the people supported by Birch;
- Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into such violation of a law, rule or regulation of such employer; or Objects to or refuses to participate in any such activity, policy or practice which is a violation of a law, rule or regulation or otherwise reasonably believed to constitute improper quality of care.

Birch has established an organizational culture that provides a safe environment for all to report concerns and that Compliance Officer and agency leadership are approachable by all.

**Maintenance of Records**

Members of the Board of Directors, employees and contractors:

- Must timely record and report all Birch services and financial information fully, accurately, and honestly. Records include, but are not limited to, records of the people we support, documentation of services, accounting books or records, financial statements, timesheets or records, expense reports, vouchers, bills, payroll, claims / payment records, correspondence, and any other communication regardless of the method of communication. All actual or suspected fraud or other misconduct must be reported to the Compliance Officer immediately.

- Will not omit or conceal any relevant information including, material financial or nonfinancial information that could impact Birch’s internal or external reports and other communication.
- Will not falsify personal credentials, documents or certifications required by Birch and/or regulatory authorities.
- Must always comply with legal and regulatory requirements and Birch policies governing the retention, disposal, or destruction of records of or pertaining to Birch and are prohibited from destroying records pertaining to litigation or government investigations or audit without express written approval of the Compliance Officer.

### **Confidentiality**

The confidentiality of a child’s, adult’s, or family member’s information is a cornerstone of Birch Family Services’ organizational ethos. All such information shall be treated with discretion, even internally. All disclosures of such information, even to a child’s or adult’s parent, legal guardian or other members of the child’s or adult’s service or support team, shall be limited to the information necessary to disclose as required by the purpose of the disclosure, and shall at all times be within the limits of applicable laws and regulations, as well as the government’s and Birch Family Services’ policies and procedures. Accordingly, all employees, directors, officers and agents of Birch Family Services are responsible for ensuring the confidentiality of all personally identifiable information in all program and service records, as defined above, consistent with the provisions of the following federal laws and regulations:

- Family Educational Rights and Privacy Act (FERPA)
- Health Insurance Portability and Accountability Act (HIPAA)
- Confidentiality of Information (in Part 300 of Title 34 Subtitle B, Chapter III—Special Education and Rehabilitative Services)
- US Code, Title 42 (Head Start), Section 9836a (a)(4) “Confidentiality”
- US Code, Title 20 (Education), Section 1232g “Family educational and privacy rights”

and in the following New York State laws and regulations:

- NYS Education Law, Title 1, Article 1, Section 2-d “Unauthorized use of personally identifiable information” and “Parents bill of rights for data privacy and security”
- Part 200 of the New York Code of Rules and Regulations as referenced in the SED Memorandum: “Changes to the New York State Procedural Safeguards Notice: Rights for Parents of Children with Disabilities, Ages 3-21” issued by SED (April, 2014)

and all other applicable provisions of law governing the confidentiality of records.

### **False Claims Act Policy**

Birch, members of its Board of Directors, employees and contractors shall not make or submit any false or misleading entries on any bills or claims, and no employee shall engage in any arrangement, or participate in such an arrangement at the direction of another employee (including any officer of Birch or a supervisor), that results in such prohibited acts. Any false statement on any bill or claim form or in a student record or medical /health record of a person supported by Birch, shall subject the employee to disciplinary action by Birch, including possible termination of employment, in accordance with Birch’s Progressive Discipline Policy.

False claims and billing fraud may take a variety of different forms, including, but not limited to, false

statements supporting claims for payment, misrepresentation of material facts, concealment of material facts, or theft of benefits or payments from the party entitled to receive them. Birch, its employees or contractors shall specifically refrain from engaging in the following billing practices:

- Making claims for items or services not rendered or not provided as claimed;
- Submitting claims to any payer, including Medicaid, for services or supplies that are not medically necessary or that were not included on the person's treatment plan;
- Double billings (billing for the same item or service more than once);
- Providing inaccurate or misleading information including but not limited to misrepresenting an individual's medical condition;
- Paying or receiving anything of financial benefit in exchange for referrals; and,
- Billing individuals for services or supplies that are included in the payment from any other payer.