

ITEM/MEETING	B211AUD1 / Board
DATE:	2/17/2021
SUBJECT:	403b Retirement Plan Compliance Review Results
TIES TO PILLAR	Pillar 5: Strengthen and Develop the ELC Broward Organization
FOR ACTION:	Yes
RECOMMENDED ACTIONS:	Approve attached Tripp Scott Proposal to bring ELC's 403B Retirement Plan into Compliance as Presented
FINANCIAL IMPACT:	\$3,000
ELC STAFF LEAD	C. Klima

Background/History

In October 2021, ELC engaged Tanya Bower, legal counsel specializing in retirement plan compliance from the law firm Tripp Scott P.A., to conduct a review of ELC's 403B Plan Compliance with Federal Regulations governing employee benefits (ERISA law). ELC's external audit firm Keefe McCullough, recommended that ELC complete the review before the end of the current fiscal year (June 30, 2021) in preparation for future 403B plan audits that will begin for ELC in July 2021. Annual retirement plan audits are required for Plan Sponsor organizations with more than 100 participating employees.

The scope of the Tripp Scott review included:

- ELC 403B Plan Documents, 2002 to present
- ELC Department of Labor Form 5500 annual filings for the 403B plan, past and present
- ELC plan administration practices, 2002 to present
- ELC plan contribution and employee payroll deferral history
- Correspondence with Valic/AIG, ELC's third party plan service provider and financial advisors regarding plan compliance

Current Status

During the review, Tripp Scott found one area that required corrective action. Specifically, ELC's Plan Document had not been restated in 2009 as required by ERISA law to include key regulatory updates enacted at that time (see attached memo for details). The deadline for completing a mandatory 403B Plan restatement passed on December 31, 2009 and ELC is now required to take additional steps to address the failure. Ms. Bower recommends that ELC complete the Department of Labor's Voluntary Compliance Program (VCP) to bring the plan into compliance prior to the end of the fiscal year.

A detailed description of the VCP is included in the attached memo. Key requirements include:

- An ELC Board of Directors resolution formally adopting an updated, fully compliant plan (Draft resolution form required by Valic/AIG and an updated Plan document will be brought to the next Governance meeting and then on to the Board)
- Completed forms and filings as noted by Tripp Scott and attached \$3,000 program fee (see memo detail)

In addition to the VCP, Ms. Bower recommends that the ELC consider procuring a new third party administrator for the Plan to actively assist the organization with ERISA compliance and manage plan administration going forward. A proposal for an RFQ will be brought to the next Governance Committee for review, along with the draft resolution noted above.

Staff Recommendation:

Approve attached corrective action plan proposed by Tripp Scott to bring ELC 403B Retirement Plan into compliance with ERISA law

Supporting Documentation

- Tripp Scott Proposed Corrective Action Plan with Sample Forms

TRIPP SCOTT, P.A.

110 SOUTHEAST 6TH STREET
15TH FLOOR
FORT LAUDERDALE, FL 33301
PHONE NO. (954) 760-4924
FAX NO. (954) 761-8475
E-MAIL: tlb@trippscott.com

MEMORANDUM

TO: Christina Klima, CAO
FROM: Tanya L. Bower, Esq.
DATE: January 29, 2021
SUBJECT: 403(b) Plan – Voluntary Compliance Program Submission

Summary -

Early Learning Coalition of Broward County, Inc. (“ELC”) adopted a 403(b) Plan in 2002. ELC never formally adopted a restatement of the Plan as required by the Internal Revenue Service at the issuance of the final Treasury Regulations regarding 403(b) Plans (adoption by 12/31/2009). In order to bring the Plan compliant, ELC will submit the Plan to the IRS’s Voluntary Compliance Program (VCP), which allows for the Plan to be corrected without causing the Plan to become disqualified. The VCP was designed to allow Plan sponsors to correct Plan errors at minimal cost. While the IRS has a similar program, called the Self-Correction Program, the Plan does not qualify for this Program because the IRS specifically excludes 403(b) Plans who failed to adopt new 403(b) Plans as required by the issuance of the 403(b) Treasury Regulations from participating in the Self-Correction Program.

Process

The process for the VCP Program:

1. ELC needs to formally adopt the current 2020 Restatement of the Plan;
2. Submission of the VCP Program Forms;
3. Payment of User Fee of \$3,000 (for Plan assets between \$500,000 and \$10 Million);
4. The Submission Forms include the Compliance Statement the IRS will sign and issue at the end of review of the submission, confirming the correction and finding the Plan in compliance.
5. Upon issuance of the IRS’s Compliance Statement, it is as if the Plan was properly restated in compliance with IRS requirements in 2009.

NOTE: If the IRS does not accept the corrective actions (adoption of the new Plan), we can request a right to conference with the IRS to appeal the determination. I do not believe this will be a concern and the IRS will agree that the Plan is now in compliance.

MODEL VCP COMPLIANCE STATEMENT
FORM 14568

ADDITIONAL EXPLANATIONS

Early Learning Coalition of Broward County, Inc.
65-1060848

Early Learning Coalition of Broward County, Inc. Retirement Plan
Plan No. 002

SECTION II- APPLICANT'S DESCRIPTION OF FAILURES

Early Learning Coalition of Broward County, Inc., formerly known as Broward County School Readiness Coalition, Inc. ("ELC"), adopted the Broward County School Readiness Coalition Retirement Plan, (the "Plan") a 403b Plan, in 2002. The 2002 Plan was a prototype Plan. In 2006, ELC formally changes its name and prepares for a Plan restatement. ELC engaged with Valic to restate the Plan. A Plan was developed and reviewed, but no evidence of formal adoption of the restated Plan can be found. The Plan continued operating after 2006 utilizing the proposed restated Plan.

In 2019, the Board of Directors of ELC decided an additional Plan Administrator needed to be named. At that time, the Chief Administrative Officer began discussions with Valic to modify the Plan to name an additional Plan Administrator. It was determined during those discussions that the Plan had not been restated as required by Notice 2009-3 to reflect the adoption of the final 403(b) Regulations.

SECTION III – APPLICANT'S DESCRIPTION OF PROPOSED METHOD OF CORRECTION

In 2020, the Plan was restated utilizing a Valic Retirement Services Company Volume Submitter 403(b) Plan Basic Plan Document 08. ELC completed the Adoption Agreement to restate the Plan and the Board approved the new, restated Plan on _____. A copy of the the Basic Plan Document and the Adoption Agreement are included with the submission. The IRS issued a favorable determination letter regarding the Basic Plan Document on April 5, 2018. A copy of the determination letter is also included with the submission.

SECTION IV – APPLICANT'S PROPOSED PROCEDURES TO LOCATE AND NOTIFY FORMER EMPLOYEES OR BENEFICIARIES

Assuming the correction is approved, no former employees or beneficiaries were affected by the failures described above nor will any former employee or beneficiary be affected by the correction compliance.

SECTION V – APPLICANT’S PROPOSED REVISION TO ADMINISTRATIVE PROCEDURES

The Applicant has appointed a Chief Administrative Officer to oversee the functioning of the Plan. Upon completion of the VCP process, the Board of Directors plans to interview and select a new third party administrator that will manage the Plan and educate the Board of Directors and appropriate officers of ELC on the proper administrative processes of the Plan. The Board of Directors is also considering a third party fiduciary to provide the Plan committee/administrator, as well as the Board, with fiduciary guidance, including the proper analysis of selecting investments for the Plan to offer participants.

ELC significantly grew in size and number of employees in the past 5 years, and even from inception. For the first ____ years of the Plan, there were always less than a dozen participants in the Plan. As a result of the growth of ELC, the Board of Directors understands that due to the growth of the participants into the Plan, the administration of the Plan needs to be more robust and third party fiduciaries and administrators need to be employed.

All submission documents and the user fee are submitted electronically to the IRS through www.pay.gov. To the extent possible, I will print and supply the documents to be reviewed and signed by the applicable authorized party at ELC. The main submission form, Form 8950, does not permit me to complete the form through any word processing process. I have attached a copy of the form with the handwritten answers that will be inputted in the IRS's electronic submission process through www.pay.gov. I will need authority to type in the name of the authorized party (Officer or Director) on the electronic portal.

Submission

1. Form 2848- This is a Power of Attorney for the IRS to discuss the Plan and the submission with me.
2. Form 8950, Application for Voluntary Correction Program (handwritten).
3. Form 14568, Model VCP Compliance Statement with Schedule B and Attachment with additional explanation.
4. Letter 5265 which the IRS will complete acknowledging receipt and assignment of the Plan to a Program agent.
5. Supporting documents (original 2002 Plan, proposed but never adopted 2006 Plan, adopted 2020 Plan, Adoption Agreement and Determination Letter).
6. Direct Payment of User fee through the electronic portal.

I have attached all Forms and attachments to this Memorandum for your review.

Please let us know if you or your board have any additional questions and if you would like to proceed with the filing of the VCP Submission.

TLB



**Department of the Treasury
Internal Revenue Service**

Tanya L. Bower, Esq.
Tripp Scott, P.A.
110 SE 6th Street, 15th Floor
Ft. Lauderdale, FL 33301

Applicant's name:
Early Learning Coalition of Broward

Plan name:
Early Learning Coalition of Broward

Plan number:

002

Control number: (completed by IRS)

Received date: (completed by IRS)

VCP case status telephone number:
(626) 927-2011

**Form 8950 Application for Voluntary
Correction Program Acknowledgement Letter**

We received your Voluntary Correction Program (VCP) or non-VCP 457(b) submission for the plan listed above and assigned it the control number listed above. Refer to this number in any communication with us about your submission. If you included a determination letter application, we will send an acknowledgement letter under separate cover.

If we need additional information, we will contact you. If you have questions about the status of your case, you can call the telephone number listed above. Please leave a message with the name of the plan, the control number, your name, and a phone number where we can reach you.

Thank you.

Sincerely,

Manager, Employee Plans Voluntary Compliance

Power of Attorney and Declaration of Representative

► Go to www.irs.gov/Form2848 for instructions and the latest information.

OMB No. 1545-0150

For IRS Use Only

Received by:

Name _____

Telephone _____

Function _____

Date / /

Part I Power of Attorney

Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address Early Learning Coalition of Broward County, Inc. 1475 W. Cypress Creek Road Ft. Lauderdale, FL 33309	Taxpayer identification number(s) 65-1060848
	Daytime telephone number 954-377-2190
	Plan number (if applicable) 002

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address Tanya L. Bower 110 SE 6th Street, 15th Floor Ft. Lauderdale, FL 33301	CAF No. 6506-08614R PTIN P00010702 Telephone No. 954-760-4924 Fax No. 954-761-8475
Check if to be sent copies of notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
Check if to be sent copies of notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
(Note: IRS sends notices and communications to only two representatives.)	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
(Note: IRS sends notices and communications to only two representatives.)	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

3 Acts authorized (you are required to complete line 3). Except for the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)
VCP Submission		

4 Specific use not recorded on the Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See Line 4. Specific Use Not Recorded on CAF in the instructions ☐

5a Additional acts authorized. In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information):

☐ Access my IRS records via an Intermediate Service Provider;
☐ Authorize disclosure to third parties; ☐ Substitute or add representative(s); ☐ Sign a return; _____

☐ Other acts authorized: _____

- b Specific acts not authorized.** My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability.

List any other specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b): _____

- 6 Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this form. If you **do not** want to revoke a prior power of attorney, check here ☐ **►**

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

- 7 Taxpayer declaration and signature.** If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, partnership representative (or designated individual, if applicable), executor, receiver, administrator, trustee, or individual other than the taxpayer, I certify I have the legal authority to execute this form on behalf of the taxpayer.

► IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.

Signature	Date	C	Title (if applicable)
Print name	Early Learning Coalition of Broward County, Inc.		
	Print name of taxpayer from line 1 if other than individual		

Part II Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
- I am subject to regulations in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
 - a** Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b** Certified Public Accountant—a holder of an active license to practice as a certified public accountant in the jurisdiction shown below.
 - c** Enrolled Agent—enrolled as an agent by the IRS per the requirements of Circular 230.
 - d** Officer—a bona fide officer of the taxpayer organization.
 - e** Full-Time Employee—a full-time employee of the taxpayer.
 - f** Family Member—a member of the taxpayer's immediate family (spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
 - g** Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the IRS is limited by section 10.3(d) of Circular 230).
 - h** Unenrolled Return Preparer—Authority to practice before the IRS is limited. An unenrolled return preparer may represent, provided the preparer (1) prepared and signed the return or claim for refund (or prepared if there is no signature space on the form); (2) was eligible to sign the return or claim for refund; (3) has a valid PTIN; and (4) possesses the required Annual Filing Season Program Record of Completion(s). **See Special Rules and Requirements for Unenrolled Return Preparers in the instructions for additional information.**
 - k** Qualifying Student or Law Graduate—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student, or law graduate working in a LITC or STCP. See instructions for Part II for additional information and requirements.
 - r** Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

► IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2.

Note: For designations d–f, enter your title, position, or relationship to the taxpayer in the "Licensing jurisdiction" column.

Designation— Insert above letter (a–r).	Licensing jurisdiction (State) or other licensing authority (if applicable)	Bar, license, certification, registration, or enrollment number (if applicable)	Signature	Date
a	FL	0093378		

Form **8950**
(Rev. November 2017)
Department of the Treasury
Internal Revenue Service

**Application for Voluntary
Correction Program (VCP)**

Under the Employee Plans Compliance Resolution System (EPCRS)
► Go to www.irs.gov/Form8950 for instructions and the latest information.

OMB No. 1545-1673
For IRS Use Only

Review the attached Procedural Requirements Checklist before mailing this VCP submission to the IRS.

1a Name of plan sponsor (employer if single-employer plan)

Early Learning Coalition of Broward County, Inc.

1b Address of plan sponsor (if a P.O. box, see instructions)

1475 W. Cypress Creek Rd

1c City or town

Ft. Lauderdale

1d State

FL

1e ZIP code

33309

1f Foreign country name

1g Foreign province/county

1h Foreign postal code

1i Employer identification number

65-1060898

1j Telephone number

954-377-2190

1k Fax number

954-377-2192

1l NAICS Business Code

2a Person to contact if more information is needed (see instructions).

(If a Power of Attorney is attached, check box and do not complete lines 2a through 2g.) ☒

Name

2b Address

2c City or town

2d State

2e ZIP code

2f Telephone number

2g Fax number

If more space is needed for any line items, attach additional sheets of the same size as this form. Identify each additional sheet with the plan sponsor's name and EIN and identify the corresponding line item.

Under penalties of perjury, I declare that I have examined this VCP submission, including Form 8950 and all accompanying documents, and, to the best of my knowledge and belief, they and the facts presented in support of this application and submission are true, correct, and complete.

SIGN HERE ►

Date ►

This application must generally be signed by the owner of a sole proprietor or by an officer with legal authority to bind a corporation, partnership, or organization. For exceptions, see instructions under *Who Must Sign*.

Type or print name

Type or print title



3 Type of VCP submission (see instructions)

Check one:

- ☒ VCP regular submission
- ☐ VCP anonymous submission
- ☐ VCP group submission
- ☐ Non-VCP 457(b) submission (see instructions)

4a Name of plan:

Early Learning Coalition of Broward County, Inc. Retirement Plan

4b Enter 3-digit plan number
(see instructions)

002

4d Enter the dollar value of the
plan's assets (see instructions)

2,640,000

4c Enter month plan year ends
(MM) (see instructions)

12

4e Enter number of participants
(see instructions)

143

Note!
We will
need
updated
#s.

5 Indicate type of plan by entering the corresponding number from the list below:

07

(Enter only one plan type.)

01-Profit sharing (not 401(k))

11-SEP

02-401(k)

12-SARSEP

14-Stock bonus

13-SIMPLE IRA

03-Money purchase

16-Group submission defined contribution

06-Target benefit

17-Group submission defined benefit

04-Defined benefit (not cash balance or
other statutory hybrid)

99-Other (see instructions)

09-Cash balance or other statutory hybrid

05-ESOP

15-KSOP

07-403(b)

08-457(b)

10-Governmental 414(d) defined benefit

20-Governmental 414(d) defined contribution

- | | Yes | No | |
|----|-------------------------------------|-------------------------------------|---|
| 6 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Are all qualification failures and correction methods in this VCP submission being resolved by the use of schedules specified on Forms 14568-A through 14568-I? |
| | | | If "Yes," please indicate the specific schedules you are submitting. |
| | | | <input type="checkbox"/> Form 14568-A, Sch 1 <input type="checkbox"/> Form 14568-D, Sch 4 <input type="checkbox"/> Form 14568-G, Sch 7 |
| | | | <input checked="" type="checkbox"/> Form 14568-B, Sch 2 <input type="checkbox"/> Form 14568-E, Sch 5 <input type="checkbox"/> Form 14568-H, Sch 8 |
| | | | <input type="checkbox"/> Form 14568-C, Sch 3 <input type="checkbox"/> Form 14568-F, Sch 6 <input type="checkbox"/> Form 14568-I, Sch 9 |
| 7 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | If you are proposing to correct any section 401(a) or section 403(b) qualification failure, does the correction include a retroactive plan amendment? See instructions. |
| 8 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Has the plan or plan sponsor been party to an abusive tax avoidance transaction? See instructions. |
| | | | If "Yes," attach an explanation that provides details of the transaction (see instructions). |
| 9 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Does the VCP submission relate to the diversion or misuse of plan assets? See instructions. |
| 10 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | As of the date this VCP submission is mailed to the IRS, is the plan sponsor or the plan under examination? |
| | | | If "Yes," you are ineligible for VCP (see instructions). |
| 11 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Have you previously filed a Form 5300 series determination letter application for this plan with the IRS that was subsequently closed or withdrawn as a result of a failure to respond to a request for additional information? |
| | | | If "Yes," attach an explanation (see instructions). |



Procedural Requirements Checklist

You do not have to use this checklist, but it may help prevent delayed IRS processing caused by an incomplete submission.

- ☐ 1 Is Form 8951, User Fee for Application for Voluntary Correction Program (VCP), under the Employee Plans Compliance Resolution System (EPCRS), attached to Form 8950?
- ☐ 2 Is the appropriate user fee for your submission (and a photocopy of the user fee check) attached to Form 8951?
- ☐ 3 If appropriate, is Form 2848, Power of Attorney and Declaration of Representative, and/or Form 8821, Tax Information Authorization, attached? For more information, see the annual Employee Plans revenue procedure in effect at the time of the submission.
- ☐ 4 Is the employer identification number (EIN) of the plan sponsor/employer (NOT the trust's EIN, or an individual's SSN) entered on line 1i? See *Line 1i* in the instructions.
- ☐ 5 Is the application signed and dated? It generally must be signed by an authorized employee or the owner of the plan sponsor. See *Who Must Sign* in the instructions for situations where the signer may be a different person.
- ☐ 6 If you are submitting Form 14568, Model VCP Compliance Statement, or any model document schedules using Forms 14568-A through 14568-I, have you used the latest official versions of these forms that are located at www.irs.gov/Retirement-Plans/Correcting-Plan-Errors? The forms may not be modified in any way. See instructions.
- ☐ 7 If you answered "Yes" to line 7, have you included a copy of each corrective plan amendment?
- ☐ 8 If this is an anonymous VCP submission, have you included a signed statement from the plan sponsor's representative indicating the representative has the legal authorization to make this submission and is willing and able to submit Form 2848 to the IRS upon disclosure of the taxpayer's identity? See instructions.
- ☐ 9 If this VCP submission involves an orphan plan, have you included appropriate documentation that establishes that this submission is being made by an eligible party? See instructions.
- ☐ 10 Have you included an explanation of how and why the described qualification failures arose? Include a description of the applicable administrative procedures for the plan that were in effect at the time the described failures occurred.
- ☐ 11 Have you included a complete description for each qualification failure that is to be resolved by this VCP submission? The narrative description should include the years in which the failure occurred and the number of employees affected.

Note: If you answered "Yes" to line 6, then items 10 through 17 on this checklist do not apply as they have been incorporated into the Form 14568 series (that is, Form 14568 and Forms 14568-A through 14568-I). All applicable items on each of the forms need to be completed, and you must include the enclosure items listed on each applicable form with your VCP submission. The Form 14568 series may be used as a Model VCP Submission Compliance Statement. Forms 14568-A through 14568-I can be used to resolve certain qualification failures. If you combine the model document schedules with the Form 14568, you must specify in each section of Form 14568 the specific model schedules that are being submitted in that section.



Procedural Requirements Checklist (Continued)

- ☐ 12 Have you included a detailed description of the method for correcting the failures that the plan sponsor has implemented or proposes to implement to correct each failure described in this VCP submission? Each step of the correction method must be described in narrative form and must include specific information needed to support the proposed correction method. See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 13 Have you included a description of the administrative measures that have been or will be implemented to ensure that each qualification failure described in this VCP submission does not recur? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 14 For each failure involving corrective contributions or distributions, have you included an explanation that provides a detailed narrative explaining the methodology you have used to determine lost earnings and how this is consistent with EPCRS correction principles? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 15 For each failure involving corrective contributions or distributions, have you included detailed and specific calculations for each affected employee or a representative sample of affected employees? The sample calculations must be sufficient to demonstrate each aspect of the proposed correction method. See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 16 For each failure involving participant loans that does not comply with section 72(p) requirements, have you included:
- An explanation that contains a detailed description of the failure;
 - An explanation that requests income tax reporting relief, and/or a request to report the distribution on Form 1099-R in the year of correction instead of the year of failure;
 - For each case in which income tax reporting relief has been requested, detailed calculations and narrative that describe the correction proposal and demonstrate compliance with the requirements set forth in the current EPCRS revenue procedure in effect at the time the submission is made to the IRS?
- ☐ 17 For each operational failure that has resulted in certain excise taxes, have you included a request and supporting explanation asking the IRS to waive or not pursue excise tax under section 4972, 4973, 4974, or 4979 or additional income tax under section 72(t), as applicable? Where required, have you included detailed explanations supporting the request? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS for information as to when such waivers are available.
- ☐ 18 Have you included an explanation that describes the method(s) used to locate and notify former employees or beneficiaries? If there are no former employees or beneficiaries affected by the failure described in this VCP submission or the proposed method of correction, have you provided an affirmative statement to that effect? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 19 For each failure described in this VCP submission that includes a failure related to transferred assets, as defined in the current EPCRS revenue procedure, have you included an attachment that describes the related employer transaction, including the date of the employer transaction and the date the assets were transferred to the plan? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 20 For operational failures, have you included a copy of the plan document (and adoption agreement, if applicable) or applicable provisions of the plan document, that were in effect during the period of failure? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.



Procedural Requirements Checklist (Continued)

- ☐ 21 For each failure described in this VCP submission that includes a non-amender failure other than a late interim amendment, have you included a copy of the plan document in effect **prior** to any of the amendments used to correct the failure? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 22 For each failure being corrected by plan amendments or the adoption of a written plan, have you:
- Included copies of the corrective amendments?
 - Submitted corrective documents that were executed by the plan sponsor (if correcting interim amendment failures or a failure to adopt a written 403(b) plan timely)?
 - Included an explanation that identifies the specific plan language that resolves each specified qualification failure described in the VCP submission (including the page and section of the plan document that includes the specific plan language), if a restated plan document is being submitted as evidence of correction?
- ☐ 23 If the plan in this VCP submission is a 403(b) plan, has a written attachment been included that contains the following items?
- A statement as to the type of employer (for example, a tax-exempt organization described in section 501(c)(3)) that is making the VCP submission; and
 - A statement indicating that the plan sponsor has contacted all other entities involved with the plan and has been assured of cooperation to the extent necessary to implement the applicable correction.
- ☐ 24 If you wish to receive an acknowledgement letter that the IRS has received your Form 8950 and VCP submission, have you included an IRS Letter 5265, Form 8950 Application for Voluntary Correction Program Acknowledgement Letter, with your submission? See the current EPCRS revenue procedure in effect at the time the submission is made to the IRS.
- ☐ 25 Have you assembled your submission as described in the current EPCRS revenue procedure in effect at the time the submission is made to the IRS?
- ☐ 26 Is this VCP submission limited to a minor modification to a previously issued compliance statement, as described in the current EPCRS revenue procedure in effect at the time the submission is made to the IRS?
- If "Yes," have you included the following items?
- An attachment describing the modification;
 - A copy of the original compliance statement;
 - A copy of the original VCP submission;
 - Any other correspondence relating to the issuance of the original compliance statement, if applicable; and
 - An attachment indicating that the modification request is being mailed to the IRS before the end of the correction period specified in the original compliance statement.



Form 14568 (November 2019)	Department of the Treasury - Internal Revenue Service <h2 style="margin: 0;">Model VCP Compliance Statement</h2>	OMB Number 1545-1673
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Include the plan name, Applicant's EIN and plan number on each page of the compliance statement, including attachments

Section I - Identifying Information

1. Applicant's name Early Learning Coalition of Broward County, Inc.	
2. Applicant's EIN (<i>do not use SSN</i>) 65-1060848	3. Plan number 002
4. Plan name Early Learning Coalition of Broward County, Inc. Retirement Plan	

Section II - Applicant's Description of Failures

Attach additional pages, as needed. Label the attachment "**Section II. Applicant's Description of Failures.**" List and number each failure separately. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement.

Failure to Adopt Written Plan timely. Schedule B is attached as well as Attachment.

Section III - Applicant's Description of the Proposed Method of Correction

Attach additional pages, as needed. Label the attachment "**Section III. Applicant's Description of the Proposed Method of Correction.**" Describe the correction method for each failure listed in Section II. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement.

Adopt a new Written Plan. See Attachment.

Section IV - Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries

Attach additional pages, as needed. Label the attachment "**Section IV. Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries.**" Describe the methods that will be used to locate and notify former employees and beneficiaries, or provide an affirmative statement that no former employees or beneficiaries were affected by each failure listed in Section II or will be affected by the correction methods described in Section III.

See Attachment.

Section V - Applicant's Proposed Revision to Administrative Procedures

Attach additional pages, as needed. Label the attachment "**Section V. Applicant's Proposed Revision to Administrative Procedures.**" Include an explanation of how and why the failures arose and a description of the measures implemented (or will be implemented) to ensure that the same failures do not occur in the future. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement.

See Attached Schedule B and Attachment.

Section VI - Requests Related to Excise Taxes, Additional Tax and Tax Reporting

- ☐ The Applicant requests that the Internal Revenue Service (IRS) not pursue the following taxes under the Internal Revenue Code (IRC) (attach supporting rationale)
- ☐ Excise tax under IRC Section 4972 with respect to failures number _____
 - ☐ Excise tax under IRC Section 4973 with respect to failures number _____
 - ☐ Excise tax under IRC Section 4974 with respect to failures number _____
 - ☐ Excise tax under IRC Section 4979 with respect to failures number _____
 - ☐ Imposition of additional tax under IRC Section 72(t) with respect to failures number _____

Applicant's EIN (<i>do not use SSN</i>) 65-1060848	Plan number 002
Plan name Early Learning Coalition of Broward County, Inc. Retirement Plan	

- ☐ The Applicant requests that the IRS grant the following for plan loan failures that did not comply with IRC Section 72(p)
- ☐ With respect to all loans described in this compliance statement, that a deemed distribution corrected pursuant to this VCP submission not be required to be reported on Form 1099-R and that repayments made by the correction not result in the affected participant having additional basis in the plan for purposes of determining the tax treatment of subsequent distributions from the plan.
 - ☐ With respect to all loans described in this compliance statement, that a deemed distribution be reported on Form 1099-R with respect to affected participants for the year of correction instead of the year of the failure.
 - ☐ For one or more plan loans described in this compliance statement that it be permitted to report the loans as deemed distributions in the year of correction instead of the year of the failure. For other affected plan loans, the plan sponsor requests relief from reporting them as deemed distributions. Attach additional narrative details that explain why the relief should be granted and which specific loans will be receiving what type of special relief.

Section VII - Enforcement Resolution (*to be completed by IRS only*)

The Applicant will neither attempt to nor otherwise amortize, deduct or recover from the IRS any portion of the paid user fee associated with this submission nor receive any federal tax benefit on account of payment of the fee.

The IRS will not pursue the sanction of revoking the tax-favored status of the plan under Sections 401(a), 403(b), 408(k) or 408(p) of the IRC on account of the failures described in this compliance statement. This compliance statement considers only the acceptability of the correction methods including the revisions of administrative procedures described in the compliance statement and does not express an opinion as to the accuracy or acceptability of any calculations or other materials included with or provided at any time during the processing of the VCP submission. The reliance provided by this compliance statement is limited to the specific failures and years specified and does not provide reliance for any other failure or year. In no event may this compliance statement be relied on for the purposes of concluding that the plan or plan sponsor was not a party to an abusive tax avoidance transaction. This compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

This compliance statement expresses no opinion as to whether the plan otherwise satisfies the requirements of the IRC and is not a letter ruling or a determination letter within the meaning of Revenue Procedure 2019-1 (updated annually) and Revenue Procedure 2019-4 (updated annually).

This compliance statement is conditioned on (1) there being no misstatement or omission of material facts in connection with the submission and (2) the completion of all corrections described in this compliance statement within 150 days of the date of this compliance statement. For governmental plans within the meaning of IRC Section 414(d), corrective plan amendments required by this compliance statement that fix the operational failures or employer eligibility failure described in this compliance statement, must be adopted by the later of 150 days after the date of this compliance statement or the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after 91 days after the date of this compliance statement.

- ☐ The IRS will treat the failure to adopt interim amendments, as described in this compliance statement as if they had been adopted timely for the purpose of making available the extended remedial amendment period set forth in Rev. Proc. 2007-44 and beginning on January 1, 2017, Rev. Proc. 2016-37, or its successors. However, this compliance statement does not constitute a determination as to whether the plan amendments, as drafted, comply with the applicable changes in qualification requirements.
- ☐ The IRS will treat the failure to timely adopt a written plan, as required under the IRC Section 403(b), Final Treasury Regulations under IRC Section 403(b) and Notice 2009-3, as if it had been adopted timely for the purposes of making available the extended remedial amendment period set forth in Announcement 2009-89, Rev. Proc. 2013-22, Rev. Proc. 2017-18, Rev. Proc. 2019-39, and any future superseding guidance. However, this compliance statement does not constitute a determination as to whether the written plan, as drafted, complies with the applicable requirements associated with IRC Section 403(b) and the Final Treasury Regulations under IRC Section 403(b).

Applicant's EIN (*do not use SSN*)
65-1060848

Plan number
002

Plan name
Early Learning Coalition of Broward County, Inc. Retirement Plan

- ☐ With regard to failure number _____ (provided that no modification has been made to either the plan document or adoption agreement of the plan that would otherwise cause the employer to lose reliance on the plan's opinion or advisory letter), the corrective amendment will not cause the plan to lose its status as a Pre-approved Plan and (provided that no modification has been made that would otherwise affect the employer's eligibility for the six-year remedial amendment cycle) the employer will be allowed to remain within the six-year remedial amendment cycle described in Rev. Proc. 2016-37 on a continuing basis until the expiration of the next six-year remedial amendment cycle as provided in Section 16.01 of Rev. Proc. 2016-37.
- ☐ The IRS will not pursue the following on account of the qualification failures described in this submission:
- ☐ Excise tax under IRC Section 4972
 - ☐ Excise tax under IRC Section 4973
 - ☐ Excise tax under IRC Section 4974
 - ☐ Excise tax under IRC Section 4979
 - ☐ With respect to the overpayment failures described in this compliance statement that were corrected by removing improper distributions from the IRAs of the affected participants and returning those distributions to the plan, the IRS will not pursue _____% of the 10% additional income tax under IRC Section 72(t).
- ☐ With respect to the loan failures described in this compliance statement:
- ☐ For all loans that are corrected by a corrective repayment to the plan or reamortization as described in this compliance statement. The IRS will not require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures, and repayments made pursuant to the correction of the loans will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to the participants.
 - ☐ For all loans that will be reported as deemed distributions. The IRS will require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures. However, the plan will be permitted to report deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure.
 - ☐ If the requested relief is not applied consistently to all loans. For loans where relief from issuing Form 1099-R is applicable, all repayments made pursuant to the correction of the loans will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to the participants. For all other loans (or situations where affected participants do not choose to or may not qualify for Form 1099-R relief), the IRS will require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures. However, the plan will be permitted to report the deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure.

Approved:

Manager, Employee Plans Voluntary Compliance
Tax Exempt and Government Entities Division

Date _____

Form 14568-B (June 2018)	<div style="text-align: center;"> Department of the Treasury - Internal Revenue Service Model VCP Compliance Statement - Schedule 2: Other Nonamender Failures and Failure to Adopt a 403(b) Plan Timely </div>	OMB Number 1545-1673
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Include the plan name, Applicant's EIN and plan number on each page of the compliance statement, including attachments.

Plan name

Early Learning Coalition of Broward County, Inc. Retirement Plan

EIN 65-1060848	Plan number 002
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Section I - Identification of Failures

A. Qualified Plans: The plan identified above was not amended to comply with the applicable provisions of the following legislative and regulatory requirements by the applicable deadlines in accordance with Internal Revenue Code (IRC) Section 401(b) and the regulations thereunder:

- ☐ The Tax Reform Act of 1986 (TRA '86)
- ☐ The Unemployment Compensation Amendments of 1992 (UCA)
- ☐ The Omnibus Budget Reconciliation Act of 1993 (OBRA)
- ☐ GUST (includes the Uruguay Round Agreements Act, the Uniformed Services Employment and Reemployment Rights Act of 1994, the Small Business Job Protection Act of 1996, the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998 and the Community Renewal Tax Relief Act of 2000)
- ☐ The changes required by the 2004 Cumulative List (Notice 2004-84) for an eligible employer using a pre-approved defined contribution plan who failed to adopt the pre-approved plan by April 30, 2010, as required by Announcement 2008-23.
- ☐ The changes required by the 2005 Cumulative List (Notice 2005-101) for Cycle A individually designed plans.
- ☐ The changes required by the 2006 Cumulative List (Notice 2007-3) for Cycle B individually designed plans, and any eligible employer using a pre-approved defined benefit plan who failed to adopt the pre-approved plan by April 30, 2012, as required by Announcement 2010-20).
- ☐ The changes required by the 2007 Cumulative List (Notice 2007-94) for Cycle C individually designed plans.
- ☐ The changes required by the 2008 Cumulative List (Notice 2008-108) for Cycle D individually designed plans.
- ☐ The changes required by the 2009 Cumulative List (Notice 2009-98) for Cycle E individually designed plans.
- ☐ The changes required by the 2010 Cumulative List (Notice 2010-90) for Cycle A individually designed plans and any eligible employer using a pre-approved defined contribution plan who failed to adopt the pre-approved plan by April 30, 2016, as required by Announcement 2014-16).
- ☐ The changes required by the 2011 Cumulative List (Notice 2011-97) for Cycle B individually designed plans.
- ☐ The changes required by the 2012 Cumulative List (Notice 2012-76) for Cycle C individually designed plans.
- ☐ The changes required by the 2013 Cumulative List (Notice 2013-84) for Cycle D individually designed plans.
- ☐ The changes required by the 2014 Cumulative List (Notice 2014-77) for Cycle E individually designed plans.
- ☐ The changes required by the 2015 Cumulative List (Notice 2015-84) for Cycle A individually designed plans.
- ☐ Amendments required as a condition for a favorable determination letter.
- ☐ Other (specify the late amender failure not listed above) (Attach additional pages as needed. Label the attachment "Section 1A of Form 14568-B, Identification of Other Nonamender Failures" and include the plan name, Applicant's EIN and plan number at the top of each page.):

Plan name

Early Learning Coalition of Broward County, Inc. Retirement Plan

EIN

65-1060848

Plan number002

B. 403(b) Plans:

- ☒ The plan sponsor did not timely adopt a written plan as required by the final IRC Section 403(b) regulations and Notice 2009-3.

Section II - Description of Proposed Method of Correction

- ☐ **A. Qualified Plan.** The Applicant (or the plan sponsor) adopted amendments that satisfy the requirements of all the items checked in Section IA of this Form 14568-B, retroactively to the effective dates of the specific provisions contained in the amendments. Copies of the signed and dated amendments and restated plan documents (where applicable) are enclosed with this VCP submission.
- ☒ **B. 403(b) Plan.** Failure to adopt a written plan timely. The Applicant (or the plan sponsor) adopted a written plan retroactive to the later of the effective date of the final 403(b) regulations or the initial effective date of the plan. A copy of the signed and dated 403(b) plan is enclosed with this VCP submission.

Section III - Change in Administrative Procedures

The Applicant indicated the plan sponsor has taken (or will take) the following step(s) to ensure that the failure(s) will not recur: The Applicant now has a larger management team with a Chief Administrative Officer focusing on making sure the organization stays in compliance with all of its human resource functions and plans. Additionally, once the Plan has completed VCP, the Plan intends to retain either a new third party administrator or fiduciary to assist in keeping the Plan in compliance.

Section IV - Enclosures

In addition to the applicable items listed on the Procedural Requirements Checklist for Form 8950, the plan sponsor enclosed the following documents, as appropriate, with this VCP submission:

- Copies of all signed and dated amendments used to correct the failures,
- A copy of the plan document in effect prior to any of the amendments used to correct the failures,
- A copy of the most recent determination letter issued with respect to the plan (if applicable),
- For 403(b) plans, a copy of the signed and dated written 403(b) plan.

ITEM/MEETING	B211AUD2 / Board
DATE:	2/17/2021
SUBJECT:	<ol style="list-style-type: none"> 1. Preliminary Draft Audit Report for Fiscal Year 2020 2. Preliminary Draft Form 990 for 2019 3. Empowerment of the Audit Committee to Approve Finalized Audit Report and Form 990 between Board meeting and March 31 2021 Submission Deadline.
TIES TO PILLAR	Pillar 5: Strengthen and Develop the ELC Broward Organization
FOR ACTION:	Yes
RECOMMENDED ACTIONS:	<ol style="list-style-type: none"> 1. Approve Preliminary Draft Audit Report for Fiscal Year 2020 2. Approve Preliminary Draft Form 990 for 2019 3. Approve a Request to the Board to Empower the Audit Committee to Review and Approve the Finalized FY20 Audit Report and 2019 Form 990 on behalf of the Board between the Board Meeting on February 17, 2021 and the March 31, 2021 Federal Deadline for Submission
FINANCIAL IMPACT:	None
ELC STAFF LEAD	C. Klima

Background Information:

In accordance with the Early Learning Coalition's fiscal policies and the OEL Grant Agreement, an audit of the Coalition's financial operations is performed annually. For FY 2020, ELC's external audit firm, Keefe McCullough, began a virtual site visit in October 2020 and completed a Preliminary Draft Audit Report and Preliminary Draft Form 990 on February 10, 2021. William Benson, Managing Partner, and/or Martha Parker, Engagement Partner, will present their results to the Committee.

Current Status:

The Preliminary Draft Audit Report contains no findings.

The report also recognizes that ELC has made progress reconciling FY 2019 provider accounts after the State of Florida's EFS Mod system was inoperative for calculating provider reimbursements over the past two fiscal years. But the process is not yet complete. OEL's statement of responsibility for causing the issue from the FY19 audit report has been included in the FY20 report.

IRS Form 990 was prepared by Keefe McCullough's tax team. It reflects financial data tested during the FY20 audit process and has been reviewed and reconciled by staff to the financials.

The audit and form 990 reports are presented to the Committee in "preliminary" draft form pending one last Keefe McCullough internal review needed to consider the reports formally finalized. OEL's month-long delay issuing information crucial to single audit testing forced Keefe McCullough staff to shift the schedule for completing the final review step to a date beyond ELC's planned Audit Committee and Board meetings. Since all Coalitions are required by Federal regulation to submit a finalized, approved audit report and Form 990 to Federal Agencies no later than March 31, 2021, staff recommend that the Audit Committee be empowered to reconvene in a special meeting between February 17, 2021 and March 31, 2021 to review and approve the formally finalized reports on behalf of the Board. Keefe McCullough staff anticipate that potential changes to either report during the final review step will likely involve only minor corrections, copy-editing or formatting changes and they do not expect changes to conclusions or analysis. All changes will be clearly marked and presented to the Audit Committee members at the proposed special meeting.

Recommendation:

Staff recommend the following motions:

1. Approve Preliminary Draft Audit Report for Fiscal Year 2020
2. Approve Preliminary Draft Form 990 for 2019
3. Approve the Audit Committee to Review and Approve the Finalized FY20 Audit Report and 2019 Form 990 on behalf of the Board between the Board Meeting on February 17, 2021 and the March 31, 2021 Federal Deadline for Submission

Supporting Documentation:

- Preliminary Draft FY20 Audit Report
- Preliminary Draft Form 990