

**Florida Department of Education
Bureau of Exceptional Education and Student Services**

Dispute Resolution

STATE COMPLAINTS

Introduction

This guide explains the procedures for filing a *state complaint* with the Florida Department of Education (FDOE), Bureau of Exceptional Education and Student Services (Bureau).

Procedures for Filing a State Complaint

The FDOE maintains a state complaint procedure whereby parents and other interested parties may file a written complaint alleging that a public agency has violated state or federal requirements regarding the education of students with disabilities or gifted students. The state complaint procedures are outlined in the *Notice of Procedural Safeguards for Parents of Students with Disabilities* available on the FDOE website at <http://www.fldoe.org/ese/pdf/procedural.pdf>. In addition, this information is provided to parents and other interested individuals and agencies.

State complaints may be filed by an individual or organization by completing the attached model complaint form or by sending a signed written complaint letter including the required components by mail or fax to the following:

Monica Verra-Tirado, Ed.D., Chief
Bureau of Exceptional Education and Student Services
Florida Department of Education
325 West Gaines Street, Suite 614
Tallahassee, Florida 32399-0400

Fax #: (850) 245-0953

The signed, written state complaint must:

- be clearly identified as a complaint
- include a statement which describes how the district has violated a requirement of the Individuals with Disabilities Education Act (IDEA 2004) and/or the corresponding state requirements
- include an explanation of the facts on which the statement is based
- include a signature and contact information for the complainant(s)
- if alleging violations with respect to a specific child, include:
 - the name and the address of the residence of the child
 - the name of the school the child is attending
 - a description of the nature of the problem of the child, including facts relating to the problem
 - a proposed resolution of the problem

- allege a violation that occurred not more than one year prior to the date that the complaint is received

In addition, the party filing the state complaint must forward a copy of the complaint to the school district serving the child at the same time the complaint is filed. (Section 300.153 of Title 34 of the Code of Federal Regulations)

Upon receipt of the state complaint, Bureau staff will review the complaint to verify that the issues are within the Bureau's jurisdiction to investigate. If the Bureau has the authority to investigate the issue(s), the complainant will be contacted with information regarding alternate resolution activities, including early resolution and mediation. If the issues are not within the Bureau's jurisdiction to investigate, the complainant will be notified and provided other resources for resolution. In addition, the Bureau will provide the district with an opportunity to respond to the issues in the complaint, including at a minimum, the ability for the complainant and the district to voluntarily engage in mediation.

Note: If both parties agree to participate in early resolution, the complaint inquiry process is set aside pending the outcome. If both parties agree to participate in mediation, the complaint inquiry timeline is extended to allow sufficient time for the mediation process.

If an issue has been resolved in a prior mediation agreement, it cannot be reconsidered through the state complaint procedure as mediation agreements are binding and protected by contract law.

If during the complaint process the complainant also requests a due process hearing for issue(s) that are part of a state complaint, the complaint inquiry process is set aside for these issues pending the completion of the due process hearing. The remaining issues that are not part of the due process, as determined by the Bureau, will be investigated.

If an issue is raised in a state complaint that has already been decided through a due process hearing, the administrative law judge's decision in a hearing is final and will not be reconsidered through the state complaint procedure. However, the state may investigate complaints alleging that the district has failed to implement a due process hearing decision.

Receipt of Letter of State Complaint/Bureau's Acknowledgement of the State Complaint

The sixty (60) day timeline (or ninety (90) day timeline for complaints limited to gifted education) specified for the inquiry process begins on the date the signed, complaint letter with all the required components is stamped as received by the Bureau Chief's office. (There are circumstances when mail received by the Bureau is not date stamped until the following business day.)

The Bureau confirms the receipt of the state complaint with an acknowledgement letter to the complainant(s) and the school district. If the complaint letter was not signed,

Bureau staff will contact the complainant(s) regarding the need for a signature (per federal law and state practice). In addition, if all the required components of the complaint are not provided, the Bureau will notify the complainant(s) in the acknowledgement letter, and the timeline will begin upon the receipt of all the required components. Included with the acknowledgement letter to the parent(s) is a copy of the procedural safeguards if this is their first state complaint during the school year.

Request, Receipt, and Review of Documentation

Following the confirmation to the complainant(s) via an acknowledgement letter, the issues of the complaint are identified (and clarified with the complainant(s), as necessary). After the state complaint issues have been clarified by Bureau staff, the complainant and the district are given the opportunity to submit information regarding the allegations. The Bureau requests that the documentation submitted is organized appropriately to facilitate effective and efficient review. This written documentation is requested, allowing at least ten (10) calendar days for each party to respond. The Bureau may ask for additional specific information, if needed.

An extension to the timeline may be permitted if exceptional circumstances exist with respect to a particular complaint or the complainant(s) and the district agree to extend the time to engage in mediation or informal means of dispute resolution. The Bureau will notify both parties by letter regarding any extensions to the timeline.

The documentation provided is reviewed by Bureau staff with communication as necessary with either or both parties regarding the need for clarification or additional information. Telephone interviews with parents and/or district personnel and/or an onsite investigation may be necessary. It is the Bureau's responsibility to review all relevant information and make an independent determination as to whether or not the school district violated a requirement of IDEA 2004 and/or the corresponding state requirements.

Report of Inquiry

Following the Bureau's investigation, a Report of Inquiry is provided to both parties, including the following: a statement of the complaint issues / allegations, findings of fact, conclusions, corrective action and/or recommendations (if appropriate) and the reasons for the Bureau's final decision. (Section 300.152 of Title 34 of the Code of Federal Regulations)

Some complaints may be resolved through different means at the discretion of the Bureau.

Follow-up/Corrective Action

The state has procedures in place for the effective implementation of the final decision including technical assistance activities, negotiations, and corrective actions to achieve compliance. If corrective action is required, it is the district's responsibility to provide documentation/verification as specified in the Report of Inquiry. All noncompliance must

be corrected as soon as possible but in no case later than one year from the order date of the complaint.

Finality

Decisions by the Bureau are final. However, if there is a disagreement with the Bureau's final decision, the complainant(s) may file a request for a due process hearing regarding issues that have been addressed in a state complaint.

You may contact the Bureau of Exceptional Education and Student Services at **(850) 245-0476** if you have questions regarding this guide.

Authority: Section 300.151 - 153 of Title 34 of the Code of Federal Regulations