

Florida Department of Education
Bureau of Exceptional Student Education
State Complaints – General Information

Introduction

This guide explains the procedures for filing a state complaint with the Florida Department of Education (FDOE), Bureau of Exceptional Student Education (bureau), on behalf of a student with a disability.

The bureau's Dispute Resolution and Monitoring section assumes primary responsibility for the exceptional student education dispute resolution options, including the state complaint process, available to parents and local educational agencies.

The FDOE maintains a state complaint procedure whereby parents and other interested individuals and organizations may file a signed written complaint alleging that a public agency, such as a school district, has violated state or federal requirements regarding the education of students with disabilities. The state complaint procedures are outlined in Rule 6A-6.03311, Florida Administrative Code, (F.A.C.), and in the Notice of Procedural Safeguards for Parents of Students with Disabilities, which is available on the FDOE website at <http://www.fldoe.org/academics/exceptional-student-edu/beess-resources/presentations-pubs/#p>.

In addition, this information is available to parents and other interested parties upon request.

Procedures for Filing a State Complaint

Parents and other parties may file a signed written complaint under the procedures described in Rule 6A-6.03311, F.A.C. The requirements for filing a complaint are as follows:

- The complaint must include—
 - A statement that a public agency has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or the Part B regulations implementing the IDEA;
 - The facts on which the statement is based;
 - The signature and contact information for the complainant; and
 - If alleging violations with respect to a specific student—
 - The name and address of the residence of the student;
 - The name of the school the student is attending;
 - In the case of a homeless student or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act of 2001 (Title 42, section 11434a(2), United States Code)), available contact information for the student, and the name of the school the student is attending;
 - A description of the nature of the problem of the student, including facts relating to the problem; and
 - A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received.
- The complainant must forward a copy of the complaint to the public agency serving the student at the same time the complaint is filed with the FDOE.

Methods of Delivery and FDOE Contact Information

Parents and other parties may file a signed written complaint with the FDOE via email, fax or mail. The complainant may address the document to one of the following:

- **Email Address:** BEESComplaints@fldoe.org
- **Fax:** 850-245-0953
- **Mailing Address:**
Florida Department of Education
Bureau of Exceptional Student Education
Dispute Resolution and Monitoring Section: State Complaint
325 West Gaines Street, Suite 614
Tallahassee, Florida 32399-0400

FDOE Statewide Exceptional Student Education Contact Information

A copy of the signed written complaint must be provided to the public agency serving the student at the same time a parent or other party files the complaint with the FDOE. In order to assist parents and other parties in meeting this filing requirement, the bureau maintains statewide exceptional student education contact information on the FDOE website. Parents and other parties may find school district directors and other contact information at <http://www.fldoe.org/academics/exceptional-student-edu/staff/directory.stml>.

Model Forms

In accordance with the requirements of Title 34, section 300.509, Code of Federal Regulations (C.F.R.), the bureau has developed model forms to assist parents and other parties in filing a state complaint; however, the FDOE does not require the use of these model forms. These model forms are available on the FDOE website at <https://www.fldoe.org/academics/exceptional-student-edu/dispute-resolution/>.

Parents and other parties may use the appropriate model form, or another form or other document, as long as that form or document contains the appropriate requirements for filing a state complaint.

Receipt of a State Complaint by the Bureau

Upon receipt of a written state complaint, the bureau's Dispute Resolution and Monitoring section will determine whether the information provided is subject to further processing pursuant to applicable statutes and regulations. As appropriate, the bureau will provide complainants with assistance regarding their procedural safeguards and the state complaint process. If a complaint is received after work hours, which are Monday through Friday from 8 a.m. to 5 p.m., the complaint is considered received on the following workday.

If a complainant fails to meet one or more of the federal- or state-mandated filing requirements, the state complaint will be determined to be *insufficient*. Though this determination will not affect the 60-day time limit to complete the complaint resolution, it will alter the initiation and completion dates of the complaint resolution. In these circumstances, the bureau has procedures in effect to support the ability of complainants to present a state complaint and obtain timely resolution of the issues presented.

When the bureau determines that a state complaint is insufficient, the bureau will issue a *Notice of Acknowledgement and Missing Components* that—

- Clearly outlines the state complaint filing requirements described in Rule 6A-6.03311(5), F.A.C.;
- Explains how the complainant's failure to satisfy the state complaint filing requirements will affect the initiation of the complaint resolution 60-day time limit;
- Clearly describes which state complaint filing requirement was not met;
- Provides the complainant the opportunity to submit the missing components; and
- Clearly establishes a time limit (seven calendar days) for the complainant to submit the missing components.

The bureau will also provide a copy of a description of the procedural safeguards to the complainant at the same time it issues the *Notice of Acknowledgement and Missing Components*.

If the complainant fails to submit the missing components within the seven-calendar-day period, the bureau will dismiss the complaint.

If the complainant does submit the missing components within the seven-calendar-day period, the 60-day time limit for resolving the complaint begins on the day that the bureau receives all the state complaint requirements and determines the complaint to be sufficient.

Acknowledgement of a State Complaint by the Bureau

When a state complaint is received, the complainant and the public agency will be notified in writing and the complainant will be provided with a copy of the procedural safeguards notice as well as information regarding mediation.

If the bureau has the authority to investigate the allegations, the complainant will be contacted with information regarding alternate dispute resolution, including state-sponsored mediation and state-sponsored facilitated individual educational plan (FIEP) team meetings. In addition, the bureau will provide the public agency with an opportunity to respond to the allegations, including at a minimum:

- At the discretion of the public agency, a proposal to resolve the complaint; and
- An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in state-sponsored mediation.

Procedural Safeguards Notice

In accordance with the requirements of 34 C.F.R. § 300.504, the FDOE makes a current copy of the procedural safeguards available on its website at <http://www.fldoe.org/academics/exceptional-student-edu/beess-resources/presentations-pubs/#p>. The procedural safeguards notice includes a full explanation of all of the procedural safeguards available to the parents of a student with a disability relating to the opportunity to present and resolve complaints through the state complaint procedures, including—

- The time period, in reference to an alleged violation, in which to file a complaint;
- The opportunity for the public agency to resolve the complaint;
- The differences between the due process complaint to request a due process hearing and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

Request, Receipt and Review of Documentation

The bureau provides the parties to a complaint the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint. In an effort to assist complainants and public agencies, the bureau requests specific documents in its *Notice of Acknowledgement and Document Request* based on a review of the complaint allegations; however, both parties are encouraged to submit additional information other than what was requested if desired.

Throughout the complaint resolution 60-day time limit, the bureau may need to request additional information from the parties to the complaint. The parties may be contacted if clarification about the information submitted or additional information is needed. In some cases, telephone interviews with the parties, including parents and public agency personnel, or an on-site visit to the public agency may be necessary. Ultimately, it is the bureau's responsibility to review all relevant information and make an independent determination as to whether the public agency violated a requirement of Part B of the IDEA or the Part B regulations implementing the IDEA and, if applicable, the corresponding state requirements.

With Agreement of All Parties, Some Complaints May be Resolved Through Different Means

Mediation

In a state-sponsored mediation session, participants may be able to address any issues related to special education involving the student. Mediation is voluntary, and after all parties agree to participate in mediation, a third-party mediator, assigned by the bureau, meets with the parties in an informal setting and offers assistance to resolve the issues in dispute. Written mediation agreements that are developed and signed by the parties must be implemented in "good faith" by the parties and are enforceable in court. An issue resolved in a binding mediation agreement cannot be reconsidered through the state complaint procedure. An issue unresolved during the mediation will be considered through the state complaint procedure as a continuation of the existing state complaint.

Facilitation

State-sponsored FIEP team meetings allow issues related to the process of IEP development to be addressed. A facilitator supports the IEP team in the collaborative problem-solving process regarding decisions that are best for the student and helps parties reach consensus, when possible, with a goal of developing a revised IEP. Participation in the FIEP process is voluntary, and after all parties agree to have a facilitator, a third-party facilitator, assigned by the bureau, attends the FIEP team meeting. An issue unresolved through the FIEP meeting will be considered through the state complaint procedure as a continuation of the existing state complaint.

Local Resolutions

Public agencies have the discretion to submit a proposal to the bureau to resolve the state complaint. In these cases, the complainant will be provided the opportunity to review the proposal and provide voluntary written agreement to withdraw the complaint. Absent the voluntary written agreement of the complainant to withdraw the complaint, the bureau will adhere to its 60-day time limit to resolve the state complaint.

State Complaint Timeline Extensions

Under 34 C.F.R. § 300.152(a), the FDOE is required to issue a written decision on each complaint within 60 days after the complaint is filed, unless that time limit is extended because exceptional circumstances exist with respect to the particular complaint or the parties agree to extend the time limit to engage in mediation, or other alternative means of dispute resolution, such as participation in an FIEP meeting. The bureau will notify all parties in writing regarding any extensions to the time limit.

State Complaints and Due Process Hearing Requests

A parent or public agency may file a due process complaint to request a due process hearing on any matter relating to the identification, evaluation or educational placement of a student with a disability or the provision of a free appropriate public education to the student. If a state complaint is received that is also the subject of a due process hearing, or contains multiple issues of which one or more are part of that hearing, the FDOE must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. As such, the bureau places those issues in abeyance. However, any issue in the complaint that is not a part of the due process action must be resolved within the 60-day time limit.

The bureau frequently monitors the status of due process hearing requests that are tied to state complaints. Upon the conclusion of the due process hearing proceedings, the bureau will notify the parties to the complaint, in writing, of the outcome of the due process hearing request and the bureau's next steps.

If an issue raised in a state complaint has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the bureau will inform the complainant and the public agency to that effect.

A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the FDOE.

Report of Inquiry

Following the bureau's investigation, the bureau will review all relevant information and make an independent determination as to whether the public agency has violated a requirement of Part B of the IDEA or the Part B regulations implementing the IDEA.

In addition, the bureau will issue a written decision, referred to in Florida as a *Report of Inquiry*, to the complainant and the public agency that addresses each allegation in the complaint and contains—

- Findings of fact and conclusions and
- The reasons for the bureau's final decision.

Remedies for Denial of Appropriate Services

In resolving a complaint in which the bureau has found a failure on the part of the public agency to provide appropriate services, the FDOE, pursuant to its general supervisory authority under Part B of the IDEA, will address—

- The failure to provide appropriate services, including corrective action appropriate to address the needs of the student (such as compensatory services or monetary reimbursement); and
- Appropriate future provision of services for all students with disabilities.

Correction of Noncompliance

The FDOE has procedures in place for the effective implementation of the final decision, including technical assistance activities, negotiations, actions to be completed and corrective actions to achieve compliance. If corrective actions are required, it is the public agency's responsibility to provide documentation and verification as specified in the Report of Inquiry. Consistent with the requirements of 34 C.F.R. §§ 300.149 and 300.600, all noncompliance must be corrected as soon as possible, but in no case later than one year from the date of the Report of Inquiry.

Finality

The written decision of the bureau cannot be appealed with the FDOE. However, if the issue is still in dispute, the parent or public agency may, if they have not already done so, use mediation under 34 C.F.R. § 300.506 or file a due process complaint to request a due process hearing regarding the issues in contention and in accordance with 34 C.F.R. §§ 300.507 and 300.508, subject to any applicable exceptions. More information regarding mediation and due process hearings can be found on the FDOE website at <http://fldoe.org/academics/exceptional-student-edu/dispute-resolution/>.

If you have questions regarding this guide, contact the Bureau of Exceptional Student Education at **850-245-0475**.

Authority:

Rule 6A-6.03311(5), F.A.C.

34 C.F.R. §§ 300.151 through 300.153