

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. This information is consistent with the requirements found in state and federal regulations, including the Individuals with Disabilities Education Act (IDEA). The U.S. Department of Education's IDEA website can be found at <https://sites.ed.gov/idea/>.

The FDOE maintains a state complaint procedure whereby parents and other interested parties, including those in another state, may file a signed written complaint alleging that a public agency, such as a school district, has violated federal or state 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 the Notice of Procedural Safeguards for Parents of Students with Disabilities, which is available on the FDOE website at <http://fldoe.org/core/fileparse.php/7690/urlt/0070135-procedural.pdf>.

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

Procedures for Filing a State Complaint

An organization or individual, including those in another state, 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 the following:
 - A statement that a public agency has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or of 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 following must be included:
 - 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 (42 U.S.C. 11434a(2)), 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 to the problem to the extent known and available to the complainant 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 party filing the complaint must forward a copy of the complaint to the public agency serving the student at the same time the party files the complaint with the FDOE.

Methods of Delivery and FDOE Contact Information

An organization or an individual 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's Statewide Exceptional Student Education (ESE) 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 ESE Contact Information on the FDOE website. Parents and other parties may find school district director and other district contact information at <https://www.fldoe.org/academics/exceptional-student-edu/staff/ease-directors.stml>.

Model Forms

In accordance with the requirements of Title 34, section 300.509, Code of Federal Regulations (C.F.R.), the FDOE has developed model forms to assist parents and other parties in filing a state complaint under Rule 6A-6.03311, F.A.C. However, the FDOE does not require the use of these model forms. Parents and other parties may find these model forms 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 from the FDOE website, or another form or document, as long as that form or document meets, as appropriate, the requirements for filing a state complaint.

Receipt of State Complaint by the Bureau

Upon receipt of a written state complaint, the bureau's Dispute Resolution and Monitoring unit will determine whether the information provided to the bureau is subject to further processing pursuant to the applicable federal and state regulations. As appropriate, the bureau will provide complainants with assistance regarding their procedural safeguards and the state complaint process. If a complaint is received during non-work hours (work hours 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 parents' and other complainants' abilities to present a sufficient state complaint and obtain timely resolution of the allegations.

When the bureau determines that a state complaint is insufficient, a *Notice of Acknowledgement and Missing Components* will be issued to all parties of the complaint. The notice provides the following:

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

The bureau will also provide a copy of the procedural safeguards 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 submits the missing components within the seven-calendar-day period, the 60-day time limit for resolving the complaint begins with the filing of the state complaint that meets all the requirements.

Acknowledgement of the 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 as well as information regarding alternative resolution options.

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 district with an opportunity to respond to the allegations, including the following 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 notice 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 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 following:

- The time period in which to file a complaint;
- The opportunity for the public agency (school district) to resolve the complaint;
- The difference between the due process complaint 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 all parties to the complaint, including parents 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, all parties are encouraged to submit additional information than requested if desired.

Throughout the complaint resolution 60-day time limit, the bureau may ask the parties to the complaint for additional information. Also, if clarification about the information submitted is needed, the bureau will contact the parties. 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 of 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 assists them 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 may be reconsidered 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 may be reconsidered through the state complaint procedure as a continuation of the existing state complaint.

Local Resolutions

Public agencies have the discretion to work locally with the complainant to resolve the state complaint. If the complainant confirms that a local resolution has been met, the complainant has the option to 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 complete the complaint resolution, which includes the following:

- Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the IDEA or the regulations implementing the IDEA; and
- Issue a written decision to the complainant that addresses each allegation in the complaint and contains the following:
 - Findings of fact and conclusions and
 - The reasons for the FDOE's final decision.

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. 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 a 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 using 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 filed state complaint has previously been decided in a due process hearing involving the same parties, the following pertains to the decision:

- The due process hearing decision is binding on that issue and
- The FDOE will inform the complainant 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, all relevant information will be reviewed and the bureau will make an independent determination as to whether the public agency is violating a requirement of Part B of the IDEA or of 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 the following:

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

Remedies for Denial of Appropriate Services

In resolving a complaint in which the FDOE has found a failure to provide appropriate services, the FDOE, pursuant to its general supervisory authority under Part B of the IDEA, will address the following:

- 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 state 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 CRF §§ 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 to 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 at <http://fldoe.org/academics/exceptional-student-edu/dispute-resolution/>.

For questions regarding this guide, contact the Bureau of Exceptional Student Education at **850-245-0475** or at BESESupport@fldoe.org.

Authority:

Rule 6A-6.03311, F.A.C.

34 C.F.R. §§ 300.151 through 300.153