Collection of Delinquent Accounts

OF INTEREST TO
The Office of Early Learning (OEL, the Office) and Early Learning Coalitions (ELCs, coalitions) and other direct subrecipients of OEL implementing federal and state early learning programs, such as the School Readiness (SR) Program and the Voluntary Prekindergarten Education (VPK) Program.

SUMMARY
A coalition must request that OEL report a delinquent account to the Department of Financial Services (DFS) for collection after the coalition is unsuccessful at collecting the account. Coalitions must exercise “due diligence” in collection efforts before requesting DFS take over collection efforts. A coalition’s collection efforts should include issuing letters demanding repayment, approving a repayment schedule, and offsetting a debt with state or federal funds due to the debtor. If OEL denies a coalition’s request to report a delinquent account for collection by DFS, OEL may deduct the amount the debtor owes from state or federal funds due to the coalition.

BACKGROUND
A private provider or public school in the VPK Program, SR provider, contractor, or other entity that receives state or federal funds from an ELC, may be obligated to repay the funds in full or in part for various reasons, including, but not limited to –

- Overpayment.
- Improper payment.
- Disallowed payment as a result of monitoring.
- Reconciliation of a prepayment for the VPK program which results in a deficiency at the end of a fiscal year.
- Interest earned on advanced funds (see OEL Program Guidance 240.01).
- Unexpended funds that remain at the end of a fiscal year.

Note: Cases of suspected fraud should not be referred for collection services. These should be referred to DFS for investigation and possible prosecution. If the case is not accepted by DFS for suspected fraud, it should be referred to DFS for collection services.

The grant agreement between OEL and an ELC requires the coalition to –

- Repay OEL for an overpayment or disallowed expenditure under the grant award, state law, regulation, or rule.
- Ensure that a contractor or provider complies with the appropriate terms of the grant agreement.

The grant agreement also allows OEL to proceed directly against a debtor in an attempt to collect an outstanding debt.
Although OEL does not have statutory authority to settle, adjust, or charge off a debt owed to the state, under Section 4(c), Article IV of the State Constitution, the state’s Chief Financial Officer has the constitutional power to “settle and approve accounts against the state.”

After due diligence is exercised by the coalition to secure full payment of a delinquent account, Rule 69I-21.003, Florida Administrative Code (F.A.C.), allows OEL to report the account for collection by DFS.

STATE GUIDANCE

Definitions

Debtor
A SR provider, private provider or public school in the VPK Program, contractor, or other person receiving state or federal funds from an ELC becomes a “debtor” upon being obligated to repay overpayments or disallowed expenditures in full or in part to the coalition/ OEL. For purposes of this guidance only, this definition does not include those convicted of fraud and under court order to pay restitution.

Delinquent Account
An account where a debtor fails to repay in full the amount owed by the repayment date specified in the coalition’s request for repayment. If, however, a coalition approves a repayment schedule for a debtor, the debtor’s account becomes delinquent upon the debtor’s failure to –

• Submit a partial payment in the amount and by the date specified in the repayment schedule.
• Repay the account in full within 6 months after the repayment date specified in the request for repayment.

Requesting Collection of a Delinquent Account by the State
A coalition must request OEL to report a delinquent account for collection by DFS in accordance with Rule 69I-21.003, F.A.C., if –

• The coalition’s efforts to collect the delinquent account do not result in repayment in full.
• The debtor does not have a continuing contractual relationship with the coalition which is anticipated to result in funds available for offset (see below).

To request OEL to report a delinquent account for collection by DFS, a coalition should submit its request in writing to the Financial Administration and Budget Services Section of OEL at the following address:

Attn: Financial Administration and Budget Services
Office of Early Learning
250 Marriott Drive
Tallahassee, Florida 32399

OEL may deny a coalition’s request to report a delinquent account for collection by DFS if the coalition does not exercise due diligence in securing full payment by performing the collection efforts described on pages 3 and 4 of this program guidance. OEL may also deny a coalition’s request if the request does not contain the following information –
• Debtor’s name, last known address, and federal employer identification number or social security number, as applicable.
• Full amount that the debtor owes.
• If the debtor repays part of the debt, the amounts collected and uncollected.
• Any agreement and repayment schedule between the coalition and the debtor.
• Date that the debtor’s account became delinquent.
• Coalition’s efforts to collect the delinquent account and the dates of the collection efforts.
• Copies of demand letters that the coalition issued to the debtor.
• If the debtor disputes the delinquent account, documentation of the dispute-resolution process and result of the dispute.

If the request does not include the required information, OEL may request the required information.

Collection Efforts
OEL may deny a coalition’s request to report a delinquent account for collection by DFS unless the coalition performs the following collection efforts –

• **Request for Payment:** The coalition requests the debtor in writing (demand letters) to repay the funds, specifying the amount the debtor owes, the reason the debtor is obligated to repay the funds, and the date by which the debtor is requested to repay the funds.

• **Repayment Schedule:** A coalition may negotiate a repayment schedule that allows a debtor to submit partial repayments, but the repayment schedule may not extend more than twelve (12) months after the initial payment date specified in the request for repayment. The Office of Early Learning may review and approve repayment plans beyond twelve (12) months on a case-by-case basis upon written request by a coalition.

• **Offsetting Payment:** A coalition may offset, in full or in part, an amount that a debtor owes the coalition for one early learning program with state or federal funds due from the coalition to the debtor for another early learning program. A coalition offsetting state or federal funds across programs must accurately enter the transaction in the coalition’s accounting records as a repayment from the debtor to the program that the debtor owes and payment to the debtor from funds due to the debtor for the other program. A coalition should maintain accounting records in sufficient detail to comply with federal and state reporting requirements, as well as pre- and post-audit requirements.

A coalition may offset an amount that a debtor owes the coalition from funds for one fiscal year with funds due from the coalition to the debtor for a subsequent fiscal year.

A coalition offsetting funds across fiscal years must accurately enter the transaction in the coalition’s accounting records as a repayment from the debtor for the fiscal year that the debtor owes and payment to the debtor for the subsequent fiscal year from which payment is due from the coalition to the debtor.

Funds recovered from current year allocations for prior year obligations must be returned to OEL (see Program Guidance 240.01)

A coalition may continue to offset state or federal funds across early learning programs or fiscal years to secure full payment of a debt after the debt becomes a delinquent account.
First Demand for Repayment
The coalition, within 10 calendar days after the date the debtor’s account becomes delinquent, issues the debtor a demand letter by certified mail, return receipt requested. A first demand letter includes the following –

- Full amount that the debtor owes.
- Reason that the debtor’s account is delinquent.
- Demand for immediate repayment of the full amount by a date within 30 calendar days after issuance of the demand letter.
- Debtor’s right to dispute the delinquent account by submitting a written dispute to the coalition before a date that the letter specifies.
- Description of the collection efforts that the coalition may use if the debtor fails to repay the delinquent account.

Second Demand for Repayment
The coalition, within 10 calendar days after the debtor fails to repay a delinquent account in full by the date required in the first demand letter, issues the debtor a second and final demand letter by certified mail, return receipt requested. A second demand letter includes the following –

- Full amount that the debtor owes.
- Reason that the debtor’s account is delinquent.
- Demand for immediate repayment of the full amount by a date within 10 calendar days after issuance of the second demand letter.
- Debtor’s right to dispute the delinquent account by submitting a written dispute to the coalition before the date specified in the first demand letter, if the date is not expired.
- Notice that the debtor may not receive further state or federal funds from the coalition until the debtor repays the delinquent account in full.
- Notice that OEL may report a delinquent account for collection by DFS if the debtor fails to repay the account in full by the date required in the second demand letter.

Failure by the debtor to provide a change of address will not prevent nor preclude referral of the case for collection services.

Effect of Denial
If OEL denies a coalition’s request to report a delinquent account for collection by the DFS, OEL may return the delinquent account to the coalition and deduct the amount that the debtor owes from state or federal funds due from OEL to the coalition.

Documentation of Collection Efforts
OEL recommends that a coalition keep documentation of the administrative costs that the coalition spends on its collection efforts.

EFFECTIVE DATE
Issuance of this guidance represents approval by OEL management of the indicated procedures and related administrative forms. These procedures will be effective as of the date of this guidance.

AUTHORITY
s. 17.20, F.S., Rule 69I-21.003, F.A.C.
HISTORY

If you have questions or concerns regarding the guidance provided here, please contact the OEL Financial Administration and Budget Services Office at 850-717-8683.