

Collection of Delinquent Accounts

OF INTEREST TO

The Division of Early Learning (DEL, the Division), Early Learning Coalitions (ELCs, coalitions), and other direct subrecipients of DEL implementing federal and state early learning programs, such as the School Readiness (SR) and Voluntary Prekindergarten Education (VPK) Programs.

AUTHORITY

[2 CFR § 200.201](#), Use of grant agreements, cooperative agreements, and contracts.

[Section 17.20, Florida Statutes \(F.S.\)](#), Assignment of Claims for Collection

[Rule 69I-21.003, Florida Administrative Code \(F.A.C.\)](#), Procedure for Collection of Delinquent Accounts

Reference to any laws, rules and regulations in this guidance document includes revisions to those laws and regulations made after the effective date of this guidance document.

SUMMARY

A coalition must request DEL report a delinquent account to the Department of Financial Services (DFS) for collection after the coalition is unsuccessful in collecting the account. Coalitions must exercise “due diligence” in collection efforts before requesting DFS take over collection efforts. All coalition collection efforts shall be documented and include issuing letters demanding repayment, approving a repayment schedule, and offsetting a debt with state or federal funds due to the debtor. If DEL denies a coalition’s request to report a delinquent account for collection by DFS, DEL 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 receiving state or federal funds, 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 an advance for the program (s) which results in a balance at the end of a fiscal year.
- Interest earned on advanced funds (see DEL Program Guidance 240.01).
- Unexpended funds remaining at the end of a fiscal year.

The grant agreement between DEL and an ELC requires the coalition to:

- Repay DEL for an overpayment or disallowed expenditure in accordance with the grant award, state law, regulation, or rule.

- Ensure a contractor or provider complies with the appropriate terms of the grant agreement.

The grant agreement also allows DEL to proceed directly against a debtor in an attempt to collect an outstanding debt.

Although DEL 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, F.A.C.](#), allows DEL to report the account for collection by a debt collection agent contracted by the Chief Financial Officer (DFS).

If a coalition has performed due diligence and is owed money by a provider at the end of the fiscal year due to unrecovered provider overpayments, the coalition may invoice DEL for any delinquent amount not previously reimbursed. See DEL Guidance 240.01 - Cash Management Procedures for instructions.

Note: Cases of suspected fraud should not be referred for collection services. Each employee of the coalition and any subcontractor (subrecipient or contractor) providing services in connection with the grant agreement shall disclose to the DOE Inspector General, in a timely manner and in writing, all violations involving fraud, bribery, or gratuity violations potentially affecting the agreement and/or the related federal/grant program(s).

STATE GUIDANCE

Definitions

Debtor

A private provider or public school in the VPK Program, SR provider, contractor, or other entity receiving state or federal funds becomes a “debtor” upon being obligated to repay overpayments or disallowed expenditures in full or in part to the coalition/DEL. 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.

Requesting Collection of a Delinquent Account by the State

A coalition must request DEL 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 or a partial payment in the amount and by the date specified in the repayment schedule.
- 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 DEL report a delinquent account for collection by DFS, a coalition shall upload the request and the REQUIRED DOCUMENTATION listed below to the SharePoint site: Coalition Zone SharePoint\Coalition Name\Coalition Document Exchange\Delinquent Accounts Sent for Collections. Include all correspondence, demand letters (at least two), proof of mailing\delivery\certified mail receipts, repayment plans\schedules, etc.

DEL 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 in this program guidance. DEL may also deny a coalition's request if the request does not contain the following required documentation\information:

- Debtor's name, last known address, and federal employer identification number or social security number, as applicable.
- Full amount the debtor owes.
- If the debtor repaid part of the debt, the amounts collected and uncollected, and the dates of the collections.
- Any agreement and repayment schedule between the coalition and the debtor.
- Date the debtor's account became delinquent. This should be the original due date unless a payment plan was established, in which case, the delinquency date would be the date the repayment plan date was missed.
- Coalition's efforts to collect the delinquent account and the dates of the collection efforts.
- Copies of demand letters 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, DEL may request the required information.

Collection Efforts

DEL 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 which 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 Division 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 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 and federal funds across programs must accurately enter the transaction in the coalition's accounting records as a repayment from the debtor to the program the debtor owes and payment to the debtor from the 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 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 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 through offsetting for prior year obligations must be remitted to DEL via check.

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 must include the following:

- Full amount the debtor owes.
- Reason 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 or specified partial payment(s) in the amount(s) and by the date(s) specified in the letter to again become compliant with the repayment schedule.
- Debtor's right to dispute the delinquent account by submitting a written dispute to the coalition before a date the letter specifies.
- Description of the collection efforts 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 or fails to make the specified partial payment(s) by the date(s) 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 must include the following:

- Full amount the debtor owes.
- Reason the debtor's account is delinquent.
- Demand for immediate repayment of the full amount or specified partial payment(s) 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 has not expired.
- Notice the debtor may not receive further state or federal funds from the coalition until the debtor repays the delinquent account in full or the specified partial payment(s).
- Notice DEL may report a delinquent account for collection by DFS if the debtor fails to repay the account in full or the specified partial payment(s) by the date required in the second demand letter.

Note: Failure by the debtor to provide a change of address does not preclude referral of the case for collection services.

The ELC requesting DEL report a delinquent account shall make the request to DEL no later than thirty (30) days from determining the ELC cannot recover the delinquent account in accordance with this guidance.

Documentation of Collection Efforts

DEL requires a coalition keep documentation of the administrative costs the coalition spends on its collection efforts. See Program Guidance 250.01.

EFFECTIVE DATE

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

HISTORY

This program guidance replaces OEL-FG-0003-12 (Collection of a Delinquent Account) adopted by the Office of Early Learning on August 21, 2012. Revised May 15, 2014, Reissued November 26, 2014. Revised and reissued June 1, 2016; Effective July 1, 2016. Revised December 23, 2016, Revised July 1, 2018. Revised March 29, 2019 and reissued July 1, 2019, Revised November 15, 2019, Revised July 1, 2021. Revised August 2022.

Please direct questions and comments to the Division of Early Learning at OEL.Questions@oel.myflorida.com.