



Problem Resolution System Office

## Special Education State Complaint Procedures Guide

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## Table of Contents

|       |   |    |
|-------|---|----|
| I.    | About PRS and this Guide .....  | 4  |
| II.   | Technical Assistance.....   | 6  |
| III.  | Authority/Jurisdiction of PRS .....                                       | 6  |
| IV.   | Filing a Special Education Complaint.....                                 | 7  |
|       | a) Copy of the Complaint to the Other Party.....                          | 8  |
|       | b) Confidentiality and Third-Party Access to Information .....            | 9  |
| V.    | Required Content of a Complaint .....                                     | 10 |
| VI.   | Time Limit for Filing a Special Education Complaint .....                 | 11 |
|       | a) Date of Receipt.....   | 11 |
|       | b) Processing the Complaint .....   | 12 |
| VII.  | Attempts at Resolution While a Complaint is Pending .....                 | 12 |
| VIII. | Timelines for Investigation .....   | 13 |
| IX.   | Withdrawing a Complaint .....   | 13 |
| X.    | Conducting the Investigation .....  | 14 |
|       | a) Complainant's Final Opportunity to Submit Additional Information ..... | 15 |
|       | b) Possible Subsequent Requests for Information .....                     | 15 |
| XI.   | The Determination .....   | 16 |
| XII.  | Corrective Action .....   | 16 |
| XIII. | Parties' Access to Information During the PRS Complaint Process.....      | 19 |
| XIV.  | Finality of the Decision .....  | 20 |
| XV.   | BSEA and PRS Special Education Complaints .....                           | 21 |
|       | a) Mediation and PRS Special Education Complaints .....                   | 21 |

|        |  |    |
|--------|--|----|
| b)     | Due Process Hearings and PRS Special Education Complaints .....                    | 22 |
| XVI.   | Retaliation Prohibited.....  | 23 |
| XVII.  | Complaints regarding students enrolled in private schools at private expense ..... | 23 |
| XVIII. | Department’s General Supervision .....   | 24 |
| XIX.   | Glossary of Terms .....  | 25 |

The Department of Elementary and Secondary Education's (Department) Problem Resolution System (PRS) Office provides students, families, school districts, and other community members with easy access to information regarding students' rights and educational options and access to a forum for the resolution of disputes that is prompt, accurate, and fair.

## **I. About PRS and this Guide**

The Department is committed to helping individuals, schools, and school districts resolve problems and encourages school districts and schools to take quick action to respond to questions and concerns about students' educational programs. Through PRS, the Department handles complaints as required by applicable federal and state laws and regulations. This guide is limited to the procedures related to PRS's handling of complaints alleging a violation of [Part B of the Individuals with Disabilities Education Act \(IDEA\)](#), [its implementing regulations](#), or state special education law ([M.G.L. c. 71B](#)) or the state special education regulations ([603 C.M.R. 28.00](#) or [603 C.M.R. 18.00](#)).

Parties are encouraged to continue to work together to resolve their disputes before, during, and after a complaint has been filed. If the parties resolve all or a portion of the concerns raised in the complaint, the complainant may withdraw the resolved concerns.

**Please note, this guide addresses special education complaints, as defined in the [Glossary of Terms](#). If you are interested in filing a *general education complaint*, please contact PRS for further information. Please note, some requirements related to PRS's handling of special education complaints are not applicable to other complaints. For example, the resolution timeline applicable to special education complaints does not apply to general education complaints.**

### *Communicating with PRS*

There are several ways to contact PRS with questions or concerns. Most commonly, individuals send an email or call the office directly. PRS Specialists are available between 8:45 a.m. and 5:00 p.m. every business day at the following contact information:

Problem Resolution System Office  
Massachusetts Department of Elementary and Secondary Education  
135 Santilli Highway - Everett, MA 02149  
Main Telephone: 781-338-3700  
TTY: N.E.T. Relay: 1-800-439-2370  
Fax: 781-338-3710  
Email: DESECompliance@mass.gov

The Department has access to interpreters that upon request can provide interpretation services during phone calls in over 140 languages. Phone interpreters may be immediately accessed by PRS staff as needed to provide interpretation services for the conversation.

When an email is sent to the PRS compliance mailbox, it will be forwarded to a PRS Specialist for a response as appropriate. If the email is in a language other than English, PRS will have the email translated and follow up as appropriate, which may include issuing a written response translated into the language in which the original email was received.

PRS strives to make itself accessible to all interested parties, including families, educators, and community members. To do so, information about PRS is displayed on the [Department's website](#) and included in the [Parent's Notice of Procedural Safeguards](#).

### *The Role of PRS Specialists*

PRS Specialists are Department staff who provide technical assistance to the public and investigate complaints filed with PRS. Once a complaint is filed, PRS Specialists are generally the involved parties' point of contact throughout the pendency of their PRS complaint. To provide prompt and accurate support to the community, PRS Specialists may also consult with other professionals in the Department, other agencies, or resources to answer questions or request clarification of the applicable requirements.

## **II. Technical Assistance**

PRS is available to provide guidance and answer general questions from parents/guardians, school personnel, and other members of the public related to state and federal education laws, regulations, and policies. To request technical assistance from PRS, please use the contact information outlined in Section I above of this guide.

## **III. Authority/Jurisdiction of PRS**

PRS has the authority to investigate allegations that occurred within one calendar year from the date of the complaint intake. Such allegations may include that a school district or public agency has violated a requirement of IDEA Part B, its implementing regulations, or state special education laws or regulations. Examples of allegations that PRS addresses, include, but are not limited to:

- A complaint challenging a school district or public agency's eligibility determination;
- Procedural issues and matters related to implementation of requirements;
- A complaint alleging a school district or public agency denied a free appropriate public education (FAPE), including if a complainant is seeking tuition reimbursement or placement in a private school at public expense on behalf of an individual student; and
- A complaint alleging that a school district or public agency has not provided a FAPE to an individual child or group of children in accordance with Part B of the IDEA, its implementing regulations, or state special education laws or regulations.

PRS has the authority to investigate allegations that pertain to an individual student or a group of students. Additionally, PRS is responsible for determining whether it has jurisdiction over some or all of the allegations in a complaint. PRS will not investigate allegations over which it does not have jurisdiction. If PRS does not have jurisdiction over any of the allegation(s) in a complaint, PRS will provide written notification to the parties explaining the reason(s) for not investigating the allegation(s). If PRS has jurisdiction over some, but not all of the allegations(s) raised in a complaint, PRS will provide written notification to the parties that identifies the closed

allegations, the reason(s) for the closure and the allegation(s) PRS will investigate because they fall within its authority.

Please see the following guidance from the [U.S. Department of Education's Office of Special Education Programs](#) for additional information about state complaints.

#### **IV. Filing a Special Education Complaint**

Any individual or organization, including one from another State, may file a complaint with PRS alleging that a school district, public school, educational collaborative, charter school, approved private special education school, or any public agency<sup>1</sup> as defined by 34 C.F.R. §300.33 has failed to comply with a requirement of:

- Part B of the Individuals with Disabilities Education Act (IDEA); or
- IDEA Part B implementing regulations at 34 C.F.R. §300; or
- Massachusetts Special Education Law (M.G.L. c. 71B); or
- The Department's special education regulations at 603 C.M.R. 28.00 or 603 C.M.R. 18.00.

Complaints submitted to PRS may allege violations with respect to an individual student or a group of students, which may be referred to as a systemic complaint.

PRS accepts complaints through its online system, which can be accessed on the PRS webpage at: [doe.mass.edu/prs/](http://doe.mass.edu/prs/). Instructions for completing the intake form are provided on the website.

The PRS intake form is readily available on the PRS website in multiple languages and can be translated into additional languages as needed. Additionally, a complaint may be filed in any

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<sup>1</sup> As the State Educational Agency, the Department is included under the definition of a public agency under 34 C.F.R. §300.33. Therefore, in accordance with 34 C.F.R. §§300.151 through 300.153, any individual or organization may file a complaint with PRS alleging that the Department violated IDEA Part B or its implementing regulations at 34 C.F.R. Part 300. Any such complaint must meet the requirements outlined in 34 C.F.R. § 300.153 and will be processed consistent with the requirements under IDEA Part B, its implementing regulations, and this Guide. Please note, however, PRS is not required to and does not accept or process complaints against the Department raised under state law or regulations, including but not limited to G.L. c. 71B, 603 CMR 18 or 28.

language. If PRS is aware that a Complainant has a primary language other than English, PRS will provide all oral and written communications in both English and their primary language. If a complaint is submitted to PRS in a language other than English, the investigator will have the complaint translated. While PRS recommends the use of its online intake form, complainants are not required to use it (see below for additional information on other ways to file a complaint).

PRS will ordinarily not issue standard reports for a complaint submitted anonymously to PRS. However, PRS may use the information contained in an anonymous complaint as deemed appropriate to exercise the Department's general supervisory authority (Please see Section (XVIII) of this Guide for more information).

#### Other Ways to File a Complaint

In addition to the online intake form discussed above, PRS accepts complaints submitted via fax, email, U.S. mail, and in-person. Anyone who prefers or needs to receive a paper copy of the intake form, has difficulty accessing the online form, has additional questions, or requires assistance with submitting a complaint, may contact the PRS office for support. PRS staff can provide reasonable assistance to complainants who may be unable to submit a complaint in writing. Such reasonable assistance may include transcription of oral intakes from complainants via telephone. To seek support in submitting a PRS complaint, please contact the PRS office at:

Problem Resolution System Office  
Massachusetts Department of Elementary and Secondary Education  
135 Santilli Highway – Everett, MA 02149  
Main Telephone: 781-338-3700  
TTY: N.E.T. Relay: 1-800-439-2370  
Fax: 781-338-3710  
Email: [DESECompliance@mass.gov](mailto:DESECompliance@mass.gov)

#### a) Copy of the Complaint to the Other Party

Complainants must send a copy of the signed, written complaint to the school district, school, or public agency against which the complaint is being filed at the same time as the complaint is filed



with PRS. If a complaint is filed through the PRS online intake form, a copy of the complaint and any uploaded documents will automatically be sent to the entity identified by the complainant.

b) Confidentiality and Third-Party Access to Information

Information related to PRS complaints is stored in an electronic database and those who have access to the electronic database are subject to the [Commonwealth of Massachusetts Information Security Policies and Standards](#).

PRS will not share personally identifiable student information with a third-party unless PRS has written consent authorizing it to share such information or other documentation entitling the third-party access to otherwise protected information (e.g., in response to a lawfully issued subpoena or judicial court order as permitted under 34 C.F.R. § 99.31(a)(9)(i) and (ii)).

If a third-party individual or organization files a complaint on behalf of a named student and does not provide PRS with written consent authorizing it to share protected student information, PRS will request a release of information from the student's parent/guardian or the student if appropriate.

If a third-party individual or organization files a complaint on behalf of a specific student or a group of students and PRS does not receive written consent or other documentation authorizing it to share the personally identifiable student information, any personally identifiable information about the student will be redacted from PRS correspondence and decision(s) provided to the complainant. In some cases, redaction may not be sufficient to protect personally identifiable student information from disclosure. In those limited cases, PRS may determine it will not provide a copy of its decision or correspondence to the third-party complainant. These rare cases will be addressed on a case-by-case basis at the discretion of PRS. Even if PRS is unable to issue a written decision to the third-party complainant, PRS will still investigate the complaint and issue a written decision that addresses each allegation and includes findings of fact, conclusions, the reasons for the final decision, and any corrective action(s) deemed appropriate.

## **V. Required Content of a Complaint**

A complainant is **not** required to provide a sworn or notarized statement, or an affidavit. However, special education complaints must be in writing and signed by the complainant, either electronically using the PRS online intake form or through submission of a written, signed document. Although use of the PRS form is not required, a complaint must include the following information to be considered sufficient:

1. The complaint must contain an allegation that the school district, public school, educational collaborative, charter school, approved private special education school, or public agency as defined by [34 C.F.R. §300.33](#) has not complied with Part B of the Individuals with Disabilities Education Act (IDEA), its [implementing regulations](#) at [34 C.F.R. Part 300](#), or state special education law and regulations. Complaints do not need to reference or cite specific statutory or regulatory provisions.
2. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with [34 C.F.R. §300.151](#).
3. The complaint must contain facts upon which the allegation is based.
4. The signature and contact information for the complainant; and
5. If the complaint relates to an individual student, the complaint must contain:
  - 1) The name and address of the residence of the student.
  - 2) The name of the school the student is attending.
  - 3) In the case of a homeless child or youth, within the meaning 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;
  - 4) A description of the nature of the problem of the student, including facts relating to the problem; and
  - 5) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

Any complaint filed with PRS alleging a violation of the state special education law ([M.G.L. c. 71B](#)) or the state special education regulations ([603 C.M.R. 28.00](#) or [603 C.M.R. 18.00](#)) by a school district, public school, educational collaborative, charter school, or approved private special education school must also meet the requirements 2-5 above.

In addition to the above **required** information, PRS may also request certain **optional** information as a part of its intake process. This information includes, but is not limited to, the name of the school the student was attending at the time of the concern, if different than the student's current school, and whether the complainant would like to submit documentation to support their allegation(s). While this information is helpful to the complaint process, a complainant is not required to submit this optional information.

## **VI. Time Limit for Filing a Special Education Complaint**

The complaint submitted to PRS must allege a violation that occurred not more than one year prior to the date that the written complaint is received. A complainant may, but is **not** required to, include references or citations to specific provisions of state or federal special education laws or regulations.

Information beyond the one-year period may be obtained and considered by the PRS if it is necessary to determine what occurred during the applicable one-year timeline. Such information may be used to provide relevant context for evaluating events that fall within the scope of the complaint.

### **a) Date of Receipt**

PRS will determine the filing date of the complaint for all relevant timelines as follows:

- 1) During normal business hours: If a complaint is received during normal business hours (8:45 a.m. to 5:00 p.m. on regular business days), the complaint shall be considered received the same date.

- 2) After normal business hours: If a complaint is received beyond normal business hours (after 5:00 p.m., weekends, or holidays), the complaint shall be deemed received the next business day.

b) Processing the Complaint

PRS will review the complaint for all required content and determine if there is an allegation of noncompliance or if additional information may be needed. If a complaint meets the criteria outlined in [section V](#) of this guide and falls within PRS jurisdiction as outlined in [section III](#) of this guide, PRS will commence an investigation.

If PRS determines that the complaint is insufficient based on the requirements outlined above, the complainant and the district, school, or public agency will be notified in writing, along with the reason(s) why the complaint is insufficient.

If the complaint is not opened because it did not include all required information, the complainant may file a new complaint with the required information that will be treated as a new complaint subject to a new timeline based on the new submission date.

PRS may, at its sole discretion, administratively consolidate multiple complaints if they involve the same parties. PRS will provide notice to the parties of any administrative consolidation.

## **VII. Attempts at Resolution While a Complaint is Pending**

Parties are encouraged to continue to work together to resolve their disputes before, during, and after a complaint has been filed with PRS. In some cases, parties may find it helpful to access the Bureau of Special Education Appeals (BSEA) for other dispute resolution options, including mediation, facilitated Individualized Education Program (IEP) team meetings, and due process hearings. For more information, please see: <https://www.mass.gov/orgs/bureau-of-special-education-appeals>.

## **VIII. Timelines for Investigation**

PRS will issue a written decision within sixty (60) calendar days of receiving the special education complaint. However, PRS may extend the special education complaint investigation timeline in the following circumstances:

- 1) The parties voluntarily choose to engage in state sponsored mediation, and agree in writing to extend the complaint investigation timeline to permit time for mediation, or
- 2) Exceptional circumstances exist with respect to a particular complaint necessitating an extension as determined by PRS on a case-by-case basis.

These may include factors such as natural disasters, unforeseen circumstances, or events unique to the current complaint that significantly impair the ability of the PRS to investigate a complaint within sixty (60) days or the Parties to meaningfully participate in the process.

If PRS determines that an extension of the sixty (60) day timeline is appropriate, the PRS Specialist will provide the parties written notice informing them of the extension, the reasons for the extension, and the extended date by which PRS anticipates the written decision will issue.

Except for the sixty (60) day timeline discussed above, any due dates related to the complaint, including the due date for any submissions to PRS are at the discretion of PRS. Any corrective actions must be completed as soon as possible, and in no case later than one year after the identification of the noncompliance.

## **IX. Withdrawing a Complaint**

A complainant may elect to withdraw their complaint at any time prior to the issuance of a determination. If a complainant chooses to withdraw their complaint at any time prior to the issuance of a determination, the complainant must contact the assigned PRS Specialist.

## **X. Conducting the Investigation**

If a complaint meets the requirements in [section V\(a\)-\(e\)](#) of this guide, PRS will carry out an independent investigation and obtain and review all relevant information, including as follows:

- PRS will provide the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint in accordance with [34 C.F.R. § 300.152\(a\)\(2\)](#). If PRS receives additional information from the complainant that may change the scope of the investigation (i.e., new allegation(s) of non-compliance) from the scope identified by the original intake, PRS may include the new allegation(s) in the scope of the existing investigation or direct the complainant to file a new PRS complaint, at PRS's discretion. If PRS includes the new allegation(s) in the scope of the existing investigation, PRS will provide notice to the party against whom the complaint is filed.
- PRS will provide the public agency with the opportunity to respond to the complaint, 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 mediation consistent with [34 C.F.R. § 300.506](#).
- PRS may conduct an onsite investigation.
- PRS may conduct interview(s).
- PRS may consider relevant data and information that is available at the Department relating to the allegations raised.
- PRS may issue a Request for Local Response (RLR), which is a letter issued by the Department to the party against whom the complaint has been filed that provides this party with an opportunity to respond to the complaint, provide a proposal to resolve the complaint (if it chooses to do so), and provide an opportunity for the parties to voluntarily engage in mediation pursuant to [34 C.F.R. § 300.152\(a\)\(3\)](#). The RLR may also request specific information or documentation that may help the Department in its investigation of the concerns raised in the complaint.

- If PRS issues an RLR, the request will contain a date by which the recipient must respond. However, at PRS's sole discretion, PRS may agree to an alternative submission date.
- If a school district, school, or public agency acknowledges noncompliance with the applicable requirements, it may submit a proposed Corrective Action Plan (CAP) for consideration by PRS. However, PRS will make an independent determination regarding any noncompliance and necessary corrective actions.
- The response to the RLR is called the Local Response. The complainant must receive a copy of the Local Response and related documentation. However, the Local Response provided to the complainant may need to be redacted to protect third-party personally identifiable information.

If at any time during a PRS investigation into a complaint related to an individual student, PRS identifies any potential systemic noncompliance (e.g., concerns that impacts classrooms, schools, or the entirety of district), PRS will investigate the identified systemic concerns and provide the party with an opportunity to respond.

#### a) Complainant's Final Opportunity to Submit Additional Information

A complainant is encouraged to submit information, including any documentation relevant to their allegations when filing their complaint. The complainant may submit additional information, either orally or in writing, about the allegations during the investigation of their complaint. PRS will establish a timeline, at its discretion, for the complainant's submission of any additional information. The timeline will be set so as not to delay completing the investigation within the required timeline.

#### b) Possible Subsequent Requests for Information

PRS reviews all relevant information relating to the complaint. During its investigation, PRS may determine that it is necessary to request additional information or documentation from either or both of the parties. PRS determines what information is necessary to complete a full and

independent investigation into the allegations in the complaint and determines whether any violations of federal or state special education laws or regulations occurred.

While PRS is required to consider all information related to a complaint investigation, PRS may not consider, at its discretion, any information submitted late or untimely.

## **XI. The Determination**

Pursuant to [34 CFR § 300.152\(a\)\(4\)](#), PRS will review all relevant information and make an independent determination whether the school district, school, or public agency violated the applicable special education laws or regulations.

Upon completion of the investigation, PRS will issue a written decision that addresses each allegation reviewed in its investigation and include findings of fact, conclusions, and the reasons for the final decision. The written decision will be provided to the complainant in English and may be translated, if needed, into the complainant's primary language.

PRS will issue a finding of **compliance** when it determines the district, school, or public agency complied with the applicable special education laws or regulations, as outlined in the written decision. All parties ordinarily receive a copy of the written decision which also informs the parties that the complaint is closed.

PRS will issue a finding of **noncompliance** when it determines the district, school or public agency did not comply with the applicable special education laws or regulations. All parties ordinarily receive a copy of the written decision.

## **XII. Corrective Action**

When PRS issues a finding of noncompliance, PRS may require the district, school, or public agency to implement corrective action(s).



### *Developing Corrective Action Orders*

PRS has broad authority to determine the corrective action(s) necessary to resolve the non-compliance identified in a specific complaint. Corrective action is developed to address a noncompliant procedure, policy, or process, provide student level remedies, or both, and must address:

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

Corrective actions may include, but are not limited to, staff training, additional reporting requirements, policy changes, monetary awards, and compensatory services. In the case of a complaint related to an individual student where PRS has found non-compliance, the corrective action may include a tailored review (e.g., record review, etc.) of similarly situated students to determine the need for further systemic intervention from the Department if any.

In some cases, PRS may require the district, school, or public agency to conduct supplemental reporting or monitoring to ensure full implementation of required action(s) and ongoing compliance. PRS determines the appropriate and necessary corrective action(s) on a case-by-case basis. To reach a corrective action determination, PRS considers the nature and scope of the non-compliance, impact to the involved student(s), and steps necessary to achieve compliance and appropriate future provision of services for all students with disabilities. To determine student level remedies, PRS considers, as it deems appropriate, factors such as, whether the student was denied FAPE, the scope of missed services, and whether the student failed to make effective progress during the period of identified non-compliance.

In developing corrective action orders, PRS will establish due dates by which the district, school, or public agency must take the required action and due dates by which the district, school, or public agency must submit documentation to PRS. These deadlines are at the discretion of PRS

and are set for the purpose of ensuring that non-compliance is resolved as soon as possible and in no case longer than one year.

If the district, school, or public agency acknowledges noncompliance and proposes a corrective action plan, PRS may, after an independent determination of noncompliance, adopt, modify, or reject the proposed corrective action(s) or impose other corrective action(s) it deems appropriate. If PRS adopts the proposed corrective action(s) and determines the corrective action(s) were implemented, the PRS written decision will include finding(s) of noncompliance and notice that the matter is closed.

#### *Enforcing Corrective Action*

Districts, schools, or public agencies are instructed to submit all required corrective action(s) by the due dates specified to [PRSCAP@mass.gov](mailto:PRSCAP@mass.gov).

Once a determination has been issued that includes corrective action, PRS will typically assign a PRS Specialist to review and determine whether the district, school, or public agency complied with the corrective action required in the Letter of Finding. To enforce the ordered corrective action, the PRS Specialist may provide technical assistance, issue order(s), issue additional corrective action(s), and/or take other actions necessary to achieve compliance. To verify the correction of non-compliance, PRS may take steps such as conducting a review of the records, data files, and other sources of reliable information to verify correction.

Noncompliance identified by PRS must be corrected by the district, school, or public agency as soon as possible, and in no case later than one year after PRS's identification of the noncompliance. [34 C.F.R. §300.600\(e\)](#). In rare circumstances, if a district, school, or public agency does not correct identified noncompliance in a timely manner (i.e., within one calendar year from PRS's determination of noncompliance), PRS must still verify that the noncompliance was subsequently corrected. Ultimately, if PRS has not verified that the noncompliance has been

corrected within the one-year timeline, PRS will not close the original finding and may impose additional corrective actions and/or pursue enforcement actions, as it deems necessary.

Once PRS has determined that the district, school, or public agency has reached full compliance with the required corrective action(s), PRS will issue a Letter of Closure that outlines the required corrective action(s) and how the district, school or public agency satisfied the requirements.

### **XIII. Parties' Access to Information During the PRS Complaint Process**

It is PRS's duty to investigate the complaint, gather relevant evidence, and determine whether a school district, school, or public agency violated federal or state special education laws or regulations. **Federal IDEA regulations do not require that PRS allow parties to review the submissions of the other party<sup>2</sup>.** However, PRS *generally* requires that both parties receive the following types of submissions if they are submitted to PRS:

- PRS Complaint intake, including any additional documentation submitted to PRS;
- District's, school's, or public agency's Local Response submission;
- Additional documentation submission(s) that, in PRS's judgement, has a substantial impact upon the determination and that is not accessible to the other party;
- Additional information submitted by the Complainant; and
- Final Corrective Action submissions, unless otherwise noted by PRS.

Documentation that is provided to the Complainant must be provided in both English and their primary language.

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<sup>2</sup> Further, OSEP has clarified, "[t]he State complaint process is **intended to be less adversarial than the more formal filing of a due process complaint** and possible due process hearing. The State complaint procedures...do not provide the parties with the extensive procedural rights provided to parties in a due process hearing. **For example, the State complaint process does not require parties to provide evidence, nor do they require that a State allow parties to review the submissions of the other party** or to cross-examine witnesses." 71 Fed. Reg. 46540, 46605 (Aug. 14, 2006) [Letter to Reilly \(OSEP 2014\)](#) (emphasis added).

At its sole discretion, PRS may place reasonable limits on this practice, including, but not limited to, instances when the exchange of information with the opposing party may cause a delay in PRS's issuance of a determination. If you have questions regarding the exchange of information during the pendency of your complaint, you may speak with the PRS Specialist assigned to your case.

#### **XIV. Finality of the Decision**

**PRS decisions are final and may not be appealed.** However, either or both of the parties may seek mediation or a due process hearing through the Bureau of Special Education Appeals (BSEA) on the same issues addressed by PRS. A due process hearing would be a new proceeding and not for the purpose of reviewing PRS's decision. However, the BSEA's due process hearing decision would be binding on the parties and may be appealed.

If either party believes that any findings of fact in PRS's written final decision contradict the documentation provided to PRS during its investigation, the party may notify PRS, in writing, within ten (10) calendar days of the date of the written decision. PRS may elect to correct any findings of fact that contradict the record and impact the outcome and conclusion(s) in the written final decision.

Please note, this process is strictly limited to correcting findings of fact that are inconsistent with the evidence submitted during the investigation. It is **not** intended to:

- Revisit or challenge the legal standard(s) applied in the decision;
- Disagree with PRS's analysis, conclusion(s), or overall finding(s);
- Request reconsideration of the outcome or corrective actions;
- Introduce new information not already part of the original record.

A request for a factual correction must:

- Identify the finding of fact, including the page number and section of the written final decision where it appears, and reference where in the documentation submitted during the investigation the contradiction exists;
- Explain why the party believes the finding of fact is a contradiction;

- Indicate how the contradicted finding of fact impacts the outcome and conclusion(s).

Requests for correction that are not received within ten (10) calendar days of the final written decision, or that do not include the required information, will not be considered.

PRS will review the request to determine what, if any, action is necessary and appropriate under the circumstances. While this limited process may not be completed within the original sixty (60) day timeline for complaint resolution, PRS will not delay enforcement of any corrective action(s) required in the final written decision.

#### **XV. BSEA and PRS Special Education Complaints**

Parties are encouraged to continue to work together to resolve disputes.

##### **a) Mediation and PRS Special Education Complaints**

Federal special education law requires that voluntary mediation be made available to assist in resolving disputes. At any time, even if a special education complaint has already been filed, parties may agree to voluntarily participate in a mediation process made available through the BSEA. *If the parties agree to engage in BSEA mediation on matters that are also the subject of a simultaneously pending PRS complaint, the parties are encouraged to notify both the BSEA and PRS of the BSEA mediation and PRS complaint.*

If an allegation raised in a complaint is the subject of a BSEA mediation, PRS will ask the parties to voluntarily consent to an extension of the timeline for resolving the PRS investigation into those allegations.

- If both parties **agree** to extend the PRS timeline related to resolution of a PRS complaint for the purposes of mediation, the complaint will be set aside. During the time a PRS complaint is set aside by agreement of the parties, a PRS Specialist will be assigned to the case for continued monitoring and to resume investigation if the parties are unable to resolve any of the allegation(s) raised in the PRS complaint during their mediation. The PRS Specialist may request information from the parties related to the mediation, such as the scheduled date(s) for mediation. Following the scheduled mediation date(s), the PRS

Specialist will contact the parties to determine if the allegation(s) raised in the PRS complaint were resolved, at which time any remaining unresolved allegations will be addressed consistent with the requirements of this guide.

- If all parties **do not agree** to extend the PRS timeline related to resolution of a PRS complaint for the purposes of mediation, PRS will proceed with the investigation and issue a final written decision pursuant to 34 CFR § 300.152(a) and (b)(1)(i).

If the district, school, or public agency and complainant resolve all or a portion of the allegations raised in the complaint, the complainant may withdraw the complaint or certain allegations within the complaint. PRS may close a complaint upon the complainant's request, unless a written finding and conclusion of noncompliance was already reached, or other circumstances arise that require further action by PRS. However, PRS may act as it deems appropriate to address any systemic noncompliance or issues that were not resolved through the mediation.

#### b) Due Process Hearings and PRS Special Education Complaints

Pursuant to 34 C.F.R. § 300.152(c)(1), PRS must suspend its investigation into any issues raised within a PRS complaint that are also the subject of a simultaneous BSEA due process hearing until the conclusion of the hearing.

If the PRS complaint includes allegations about violations that **are not at issue** in the BSEA due process hearing, those allegations must be resolved within the sixty (60) day timeline, subject to any permissible extensions.

If all allegations raised in a PRS complaint **are also the subject of a BSEA due process hearing request**, PRS must set aside the PRS complaint until the BSEA issues a final decision or the hearing has otherwise concluded.

During any time that a PRS complaint or any allegation(s) within a PRS complaint are set aside pending the resolution of a BSEA due process hearing, a PRS Specialist will be assigned to

monitor the status of the BSEA matter and resume the PRS investigation into any allegation(s) not resolved by the BSEA matter. For those issue(s) set aside during the pendency of the BSEA due process hearing, once the due process hearing matter has concluded with the BSEA, PRS will determine if any issues raised in the PRS complaint were not addressed in the due process hearing. If any issues remain unresolved, PRS will resume the investigation into those issues. Pursuant to 34 C.F.R. § 300.152(c)(2)(i), if a BSEA hearing officer has ruled on an issue at a due process hearing involving the same parties, the hearing officer's decision is binding on that issue and the same issue cannot be investigated by PRS.

#### **XVI.    Retaliation Prohibited**

Retaliation can take the form of intimidation, threat, coercion, or discrimination. A party who believes a school district, school or public agency has engaged in retaliatory activities should contact PRS.

The Office for Civil Rights (OCR) within the U.S. Department of Education has authority to enforce the legal right to be free from retaliation under federal civil rights laws prohibiting discrimination on the basis of disability, sex, race, color, age, and national origin. Complaints regarding an allegation of retaliation for filing a complaint may also be directed to OCR at:

Office for Civil Rights  
U.S. Department of Education  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
<https://ocrcas.ed.gov/>

#### **XVII.   Complaints regarding students enrolled in private schools at private expense**

In some circumstances, a private school official can file a complaint with PRS about whether a local educational agency is meeting certain requirements in federal special education law about

equitable services for parentally placed private school students with disabilities. The private school official can file a complaint with PRS alleging that the local educational agency did not comply with child find requirements to identify parentally placed private school students who are eligible for equitable services, did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school in planning for services. For more information, please see 34 C.F.R. [§ 300.136](#).

#### **XVIII. Department's General Supervision**

DESE has [general supervision](#) responsibilities under IDEA Part B and its implementing regulations. As a part of its general supervision responsibilities, DESE provides technical assistance and monitors implementation of IDEA Part B, its regulations, state special education laws and regulations in Massachusetts. Information gathered by PRS during its technical assistance activities and its complaint process is used by the Department to inform its general supervision activities, including due diligence related to credible allegation(s).



## **XIX. Glossary of Terms**

The following is a glossary of some key terms used in this document.

1. **Bureau of Special Education Appeals (BSEA)** is an entity separate from PRS which conducts due process hearings and issues rulings and decisions concerning any matter related to eligibility, evaluation, placement, individualized education programs (IEPs), provision of special education, and procedural protections for students with disabilities. More information about the BSEA is available at: <https://www.mass.gov/orgs/bureau-of-special-education-appeals>.
2. **Complainant** is the person at least 18 years or older or organization filing a complaint with PRS.
3. **Complaint Intake (or Intake)** refers to the PRS State Complaint [model intake form](#) or other documentation used to file a complaint with PRS. The Complaint Intake must comply with the requirements outlined in [section V\(a\)-\(e\)](#) of this guide.
4. **Consent** means informed, written permission.
5. **Corrective Action Plan (“CAP”)** refers to the portion of PRS’s final decision finding noncompliance that directs the district, school, or other entity as to what actions are necessary to achieve compliance with the applicable legal requirements. PRS may require the district, school, or public agency to implement certain identified action(s) or other appropriate steps to address its failure to comply with the relevant law or regulation as outlined in the PRS determination.
6. **Day** means calendar day unless otherwise indicated consistent with [34 C.F.R. § 300.11](#).
7. **Department** refers to the Massachusetts Department of Elementary and Secondary Education.
8. **Finding of compliance** is made when PRS determines that a school district, school, or public agency complied with the applicable legal requirements.
9. **Finding of noncompliance** is made when PRS determines that a school district, school, or public agency did not or is not following the applicable legal requirements.

10. **General Education Complaints** refer to complaints that do not meet the definition of special education complaints but are otherwise related to the provision of publicly funded education by a school district, school, or other recipient of state or federal funds.
11. **Individuals with Disabilities Education Act (IDEA)** is the federal law that affords protections to eligible students with disabilities, including but not limited to the right to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). IDEA, Part B requires that the Department have a state complaint system to resolve disputes regarding compliance with the protections outlined in IDEA Part B and its accompanying regulations. The federal regulations implementing IDEA Part B require the Department to investigate special education complaints filed by any person or organization, including those from other states, that contain all required information pursuant to [34 C.F.R. §§300.151](#) through [300.153](#).
12. **Local Response** is a document(s) prepared by the party against whom a complaint has been filed, formally addressing the allegations outlined in a complaint and that is directed to the Department.
13. **Parties** include the individuals or organizations that file complaints with PRS and the school districts, schools, or public agencies against whom the complaints are brought.
14. **Parentally-placed private school student**, as used in this guide, is a student who attends a private school in Massachusetts at private expense, or who is home-schooled. This typically means that a parent, guardian, or another individual or organization pays the student's tuition (if any), not the school district or a public agency. This does not include a student who is placed in a private approved special education school or program by the student's IEP Team.
15. **PRS** refers to the Department's Problem Resolution System, which is the Department's office responsible for handling complaints from the public, as outlined in this guide.
16. **PRS Specialist** is a Department staff member who responds to questions and complaints, conducts investigations into allegations of noncompliance, and provides information to the public and school districts about education requirements.

17. **Public agency**, as used in this guide, includes the local educational agencies (LEAs), the Department as the State Educational Agency (SEA), and any other entities covered by [34 C.F.R. § 300.33](#).
18. **Request for Local Response (RLR)** is a letter issued by PRS during the complaint process that is addressed to the party against whom the complaint has been filed. The RLR provides this party with an opportunity to respond to the complaint, provide a proposal to resolve the complaint (at its sole discretion), and provide an opportunity for the parties to voluntarily engage in mediation. The RLR may also request specific information and/or documentation that may help the Department in its investigation of the concerns raised in the complaint.
19. **Retaliation**, as used in this guide, means any form of intimidation, threat, coercion, or discrimination directed at an individual because they exercised their legal rights by filing a complaint with PRS.
20. **School district** or **district**, as used in this guide, includes a public school, school district, Commonwealth Virtual School, or charter school.
21. **School** as used in this guide may refer to a public school, educational collaborative, Department approved private special education school, program, or placement.
22. **Special education** shall mean specially designed instruction to meet the unique needs of the eligible student or related services necessary to access the general curriculum and shall include the programs and services set forth in state and federal special education law and regulations.
23. **Special education complaint** is a written, signed complaint, that otherwise complies with the requirements outlined in [section V\(a\)-\(e\)](#) of this guide, that relates to an allegation that: (a) a public school, school district, approved private special education school, educational collaborative, the Department, or other public agency violated Part B of the IDEA or its accompanying regulations; or (b) a public school, school district, approved private special education school, or educational collaborative violated the state special education law ([M.G.L. c. 71B](#)) or the state special education regulations ([603 C.M.R. 28.00](#) or [603 C.M.R.](#)

[18.00](#)). The special education complaint may raise allegations with respect to an individual student or a group of students.

24. **Special education mediation** is a voluntary process for resolving special education related disputes managed by the BSEA, where a trained, impartial mediator works to help the parties resolve disputes or solve problems. You may find more information about mediation at the BSEA [here](#).

25. **Third party** is a person who is not the adult student or the parent/legal guardian of the student.