Program Quality Assurance Services
Compliance and Monitoring

Problem Resolution System

THE PROBLEM RESOLUTION SYSTEM INFORMATION GUIDE

The Massachusetts Department of Elementary and Secondary Education ("the Department") is committed to helping individuals and school districts resolve problems promptly. Laws exist to protect the rights of all students in the Commonwealth, and to ensure that all students receive equal educational opportunities.

The Department encourages schools and districts to take quick action to respond to questions and concerns about students' educational programs. Therefore, individuals with such concerns are encouraged to contact school district personnel (for example, the principal, superintendent of schools, or the administrator of special education) first to resolve the problem. However, individuals may ask the Department for assistance without speaking first with someone in the school or district.

Through its Problem Resolution System (PRS), the Department handles complaints that allege a school or a district is not meeting legal requirements for education. Program Quality Assurance Services (PQA) is the unit that manages the PRS. Anyone, including parents, students, educators, community members, and agency representatives, can contact PQA for assistance.

Contact Program Quality Assurance Services at:

Program Quality Assurance Services
Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street, Malden, MA 02148-4906
Telephone: 781-338-3700
FAX: 781-338-3710
Email: compliance@doe.mass.edu
Web: http://www.doe.mass.edu/pqa

For people who do not write or speak English, or are not comfortable communicating in English, the Department will make appropriate arrangements.

Glossary of terms

- **BSEA** stands for the Bureau of Special Education Appeals, which is independent of the Department. BSEA staff conduct mediations, write advisory opinions, and conduct hearings to resolve disputes among parents, schools, school districts, and state agencies about educational rights and special education services for students with disabilities.
- **Complainant** is the person filing a complaint.
- **Complaint**, as used in this guide, is a written claim someone makes alleging that a school district has violated legal requirements for education.
- **Consent** means written permission.
- **Department** stands for the Massachusetts Department of Elementary and Secondary Education.
- **Finding of compliance** is made when the Department has determined that a school district is following, or has followed, the requirements of the law.
- **Finding of noncompliance** is made when the Department has determined that a school district is not, or has not, followed the requirements of the law.
- **Intake coordinator** is a member of the Department’s Problem Resolution System staff who takes calls when an individual contacts the Department for assistance with resolving a problem.
- **Intake Information Form** is a form that is completed to file a complaint with the Department about legal requirements for education.
- **Mediation** is a voluntary process for resolving disputes, where a mediator who does not take sides works to help the parties resolve disputes or solve problems.
- **Parties** are the school districts, groups, or individuals who are involved in the complaint, dispute, or problem.
- **PQA** means Program Quality Assurance Services, the unit within the Department that manages the Problem Resolution System.
- **PRS** means the Department’s Problem Resolution System, which is the process for handling complaints from the public about students’ educational rights and the legal requirements for education.
- **PRS specialist** is a trained Department staff member who responds to questions and complaints, and provides information to the public and schools about education requirements.
- **Retaliation**, as used in this guide, means any form of intimidation, threat, coercion, or discrimination directed at an individual because he or she has exercised his or her legal rights.
- **School district** or **district**, as used in this guide, means a public school, school district, collaborative school, charter school, or Department-approved private special education school or placement.

This Guide includes answers to the following questions:

1. What is the Department of Elementary and Secondary Education’s Problem Resolution System?
2. What happens when I contact the Problem Resolution System?
3. How will the Department respond to my complaint?
4. What if the school district does not act to correct the noncompliance the Department has found?
5. What if I want to remain anonymous and do not want to give my name to the Department?
6. If I don’t agree with the Department’s decision, can I appeal a finding that the Department made through the Problem Resolution System? Can a school district appeal the Department’s decision?
7. May the Problem Resolution System respond to a complaint at the same time that the problem is the subject of a proceeding at the Bureau of Special Education Appeals?
8. What should a parent do if he or she believes the school district is retaliating against him or her, or the parent's child, because of a complaint filed with PQA or a hearing requested with the BSEA?

1. **What is the Department of Elementary and Secondary Education's Problem Resolution System?**

   The Problem Resolution System (PRS) is the Department's process for addressing complaints from the public about students' educational rights and the legal requirements for education. Some of the types of complaints that the PRS handles include allegations that a student is not receiving educational services, or allegations that a student is not receiving the procedural protections that the law requires. Other complaints may allege that there are problems with a school district's educational programs that affect more than one student. Complaints can be made against a school, school district, collaborative school, charter school, or a Department-approved private special education school or placement. (Throughout this document, these types of schools will be called "districts" or "school districts." The person filing a complaint is called a "complainant.")

   The PRS is staffed by intake coordinators and educational specialists (called "PRS specialists" here). PRS specialists respond directly to questions and complaints. PRS staff members also consult with others in the Department and in other agencies, if necessary, to resolve problems. When you contact PRS staff, you may ask questions about your situation, ask the Department to help you resolve your problem (also known as "filing a complaint"), or both.

2. **What happens when I contact the Problem Resolution System?**

   When you call PQA, the first person you might speak with is an intake coordinator. He or she can help you take the initial steps to file a complaint, or can answer your questions about how the PRS process works.

   If you want to file a complaint, the intake coordinator will record your concern for tracking purposes, and send you a letter confirming that you have contacted the Department for assistance. Along with this letter, you will receive information about the Department's Problem Resolution System (PRS), and a copy of an Intake Information Form. You can fill out the Intake Information Form and send it to the Department to file a complaint and to ask for the Department's help, or you can send a letter to the Department describing the problem and asking for help.

   If you wish to speak with someone about the problem, the intake coordinator will refer you to a PRS specialist. A PRS specialist provides information about state and federal legal requirements for education, and helps resolve problems. PRS specialists are assigned to work with specific school districts, and you can call the PRS specialist directly who works with your school district. Check the list of PRS specialist assignments at [http://www.doe.mass.edu/pqa/prs/specialist_list.html](http://www.doe.mass.edu/pqa/prs/specialist_list.html), or use the Department's staff phone directory at [http://www.doe.mass.edu/contact/phone.aspx?mode=staff](http://www.doe.mass.edu/contact/phone.aspx?mode=staff) to find this contact information.
The PRS specialist will talk with you about your problem, answer your questions, and discuss steps that you might take on your own to resolve the problem. Also, he or she may offer - if it is appropriate and if you give consent - to contact school personnel or others on your behalf to resolve the problem informally. It is the Department's practice, when possible, to contact the appropriate school district administrator and let him or her know that someone has contacted the Department with a concern. We take that opportunity to encourage the school district to take steps to resolve the problem with you. However, the PRS specialist will not contact the school district if you do not want him or her to do so.

The Department encourages you to continue to work with the school district to resolve problems even after you have contacted the Department for help. If you can resolve your problem with the school district, you may not need to file a complaint with PQA, or you may want to withdraw the complaint if you have already filed it.

Under extraordinary circumstances the Department may decide to take action to resolve a complaint even if the complainant has not yet sent the Department a written complaint. For example, PRS staff may decide to take such action if a complaint alleges that a student is not receiving any instruction or educational services.

**How to File a Complaint**

A complaint is someone's written claim that the school district has violated legal requirements for education. The Department reviews complaints, investigates the claims, and determines whether the district has violated legal requirements for education. If a violation has occurred, the Department directs the school to correct the violation or to take other steps to make sure that it does not happen again.

Federal law requires all complaints to be in writing and to be signed by the complainant. Whether you use the Intake Information Form or send a complaint letter to the Department, you need to put the following information in your complaint:

1. A statement saying that the school district has violated a requirement of federal or state education law;
2. The facts on which this statement is based (the reasons why you think a violation has occurred);
3. Your signature and contact information (that is, address, phone number, and/or email address);
4. If the alleged violation involves a specific child, the complaint needs to include:
   a. The child's name and address;
   b. The name of the school the child attends; and
   c. If the child is homeless, the child's contact information and school he or she is attending; and

3. Your proposed resolution of the problem (what you think can be done to fix the problem).
Please note: If the Department does not receive your signed Intake Information Form (or your complaint letter with this information) within 30 calendar days of sending the Form to you, the Department will assume that you do not want help from the Department. In this case, your issue is considered "inactive" and will not be addressed. However, you may contact the Department again if you need more help or have another concern.

When the PRS specialist receives your written complaint, he or she will contact you to discuss the problem in more detail. At any time during the PRS process, you may send additional written information to, or share more information by phone with, the PRS specialist about your complaint. It is helpful for you to share with the Department all of the information you have about the problem.

Please note: Federal special education law and Department procedures require you to send a copy of the signed, written complaint (the letter or the completed Intake Information Form) to the appropriate school district administrator at the same time you send it to the Department. Also, you must send the school district any additional information that you give to the Department during the PRS process. The Department requires this procedure for all types of complaints it receives, even if the complaint is not about special education.

When Someone Who Is Not the Student or the Student's Parent Files a Complaint

Sometimes a complainant is not a student or a student’s parent, but is an educator, community member, or someone else. In those cases, the Department cannot continue to talk with the complainant about a specific student unless the student’s parent has given his or her written permission to do so. Federal and state laws require the Department and school districts to keep education records about students confidential unless the student’s parent has given permission (also known as "consent") to let someone else have access to them. The parent’s consent must be in writing, and needs to include:

1. The records or information that may be disclosed by the Department and the school district;
2. The purpose for which the records or student information can be disclosed; and
3. The people to whom disclosure can be made.

Parents have an important role in making educational decisions for their children. Therefore, the Department strongly encourages the non-parent complainant to contact the student's parent to ask for consent, or to make sure the parent or the person who makes educational decisions for the student is aware of the issues that are being brought to the Department’s attention. In some cases, the PRS specialist may be able to continue to work on resolving the complaint without written consent from the student’s parent, but, in these circumstances, he or she cannot communicate directly with the non-parent complainant. If a parent requests that a complaint filed by a non-parent not go forward, the PRS specialist will likely honor that request.

• How will the Department respond to my complaint?
The Department Reviews the Complaint

The Department has authority to take action to resolve a complaint if it is about state or federal legal requirements for education. The Department will take steps to resolve a complaint if it:

1. is about a student's current general education program; or
2. alleges that a special education requirement has been violated, and the violation occurred no more than one year before the Department received the written complaint.

Sometimes complaints are about issues the Department has no authority to address. If the Department does not have the authority to help you, the PRS specialist will attempt to identify other steps you may take to address the issue, or other resources that may be available.

The Department Asks the School District to Prepare a Local Report

For complaints about state or federal legal requirements for education, the superintendent, director, or designee must review the complaint and prepare a written report, referred to as a local report. The local report will include additional information from the school district about the problems described in the complaint, and the school district's response. The district needs to send a copy of the local report and any related records to the PRS specialist and to the complainant.

Please note: As described in Question 2, the school district and the Department cannot communicate with a complainant who is not the student's parent unless the parent has given his or her written consent.

After reviewing the local report from the school district, the Department will decide whether it needs to investigate further before it can determine whether the district is meeting requirements of state or federal education laws. The Department may conduct an onsite investigation if it decides it is necessary.

A Complainant May Withdraw a Complaint at Any Time

Sometimes a complainant decides that he or she is satisfied that the problem has been resolved, or that he or she does not want the Department's help. At any time, a complainant may withdraw the complaint or any part of it. When a complaint is withdrawn, the Department will not make a decision about whether the school district complied with legal requirements for education. However, the Department may decide to continue to work with the district to address any systemic issues it sees that may affect students' education, even if there is not an active complaint.

The Department Decides How to Resolve a Complaint

In most cases, the Department makes a decision - either determining that the school district has not complied with the law (known as a "finding of noncompliance"), or determining that the district has complied with the law (known as a "finding of compliance") - within 60 calendar days from the date the Department received the
signed complaint. Sometimes there are exceptional reasons that will delay the Department’s decision. When there is a delay, the PRS educational specialist will send the complainant and the district a letter that explains why there will be a delay and states when the Department will make its finding.

A finding of noncompliance means that the Department has determined that the district has not met, or is not meeting, the law’s requirements for education. The PRS specialist sends the school district and the complainant a letter stating the reasons for the Department’s decision, and telling the school district what it must do to correct the noncompliance.

When the Department determines that the district has complied with legal requirements for education, the complainant and the district will receive a letter from the PRS specialist that describes the reasons for the Department’s finding of compliance.

- What if the school district does not act to correct the noncompliance the Department has found?

You should immediately contact the PRS specialist who worked on the complaint or the intake coordinator if the school district does not do what the Department has required it to do to correct noncompliance. The Department will act without delay to follow-up to make sure that the school district is complying with the law and the Department’s order to correct the noncompliance.

- What if I want to remain anonymous and do not want to give my name to the Department?

The Department cannot take action to investigate and resolve a problem that was reported anonymously. Federal special education law and Department procedures require that a complainant sign the written complaint, and include his or her contact information in it. 6 (See Question 1, Filing a Complaint.)

- If I don't agree with the Department's decision, can I appeal a finding that the Department made through the Problem Resolution System? Can a school district appeal the Department's decision?

No; the finding may not be appealed. The Department will review the complaint again if you or the school district has new information that was not shared with the Department before the Department made its finding. The Department will review the new information, and may decide (a) to reopen the complaint, (b) to open a new complaint, or (c) that no additional action is needed.

- May the Problem Resolution System respond to a complaint at the same time that the problem is the subject of a proceeding at the Bureau of Special Education Appeals?

No; Federal special education law does not allow the Department to investigate a complaint in the PRS process at the same time that the parties are trying to resolve the complaint in mediation or a hearing before the BSEA. 7 If you have sent a written complaint to the Department about the same issue that is before the BSEA, the
Department must "set aside" or "hold" your complaint until the matter before the BSEA has concluded.

If mediation is successful, then the problem has been resolved and you should contact PQA to withdraw your complaint. Let PQA know if you want to proceed with your complaint in PRS if mediation is unsuccessful and you have not requested a hearing at the BSEA.

When the BSEA hearing officer makes his or her decision about the case, the hearing officer's decision is binding. That means the Department cannot change it, and you cannot file a complaint with the Department on that same issue. The Department can only review issues that were not part of the BSEA hearing.

However, you may file a request for hearing with the BSEA even if the Department has made a finding in response to your written complaint. The purpose of the BSEA hearing is not to review or reconsider the Department’s PRS decision, but to consider the matter in a new due process proceeding. The BSEA's order or decision will be binding and cannot be reviewed by the Department.

**Parents and Schools May Try to Resolve Problems Through Dispute Resolution**

The Department strongly encourages parents and school districts to work together to resolve problems, even if the Department is investigating the complaint. At any time, even if a complaint has been filed with the Department, a parent and the district may decide to participate voluntarily in mediation through the BSEA, or to participate in other kinds of dispute resolution. Parents and school districts that agree to mediate or participate in other kinds of dispute resolution may decide together to ask the Department to "set aside" the complaint in the PRS process.

Additional information about mediation is available by calling (781) 338-6443, or on the BSEA's website at [http://www.doe.mass.edu/bsea/mediation.html](http://www.doe.mass.edu/bsea/mediation.html).

- **What should a parent do if he or she believes the school district is retaliating against him or her, or the parent's child, because of a complaint filed with PQA or a hearing requested with the BSEA?**

Retaliation can take the form of intimidation, threat, coercion, or discrimination. Depending on the nature of your complaint, federal law may prohibit school personnel from retaliating against you or your child for exercising your legal rights. If at any time you believe that the school district is retaliating against you or your child because you filed a complaint against the school, you should contact the PRS specialist who assisted you. The Department will alert the school district about your concern and, if appropriate, remind the school district about the federal requirements that prohibit retaliation.

The Department may also refer you to the Office for Civil Rights (OCR) within the U.S. Department of Education. OCR has the 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, and national origin. You may contact OCR directly at:
1 34 CFR § 300.153(d) (Filing a complaint)

2 Here, "parent" means someone who can make educational decisions for the child, and includes the child's biological or adoptive parent, guardian, or Special Education Surrogate Parent (SESP).

3 These requirements are described fully in the State Student Records Regulations, 603 CMR 23.00, and the federal Family Educational Rights and Privacy Act (FERPA) regulations, 34 CFR Part 99.

4 34 CFR § 99.30(b) (Under what conditions is prior consent required to disclose information?).

5 34 CFR § 300.149 (SEA responsibility for general supervision.) The PRS is designed to conform to federal special education requirements for a state complaint process, however, the Department receives and resolves complaints about compliance with law-related education requirements other than special education through the same process.

6 34 CFR § 300.153(b)(4)

7 34 CFR § 300.152(c) (Minimum State complaint procedures).

8 34 CFR § 152(b)(1)(ii)