

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued August 26, 2025

Department of Elementary and Secondary Education

For the period July 1, 2021 through June 30, 2023



OFFICE OF THE STATE AUDITOR

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August 26, 2025

Mr. Pedro Martinez, Commissioner
Department of Elementary and Secondary Education
135 Santilli Highway
Everett, MA 02149

Dear Mr. Martinez:

I am pleased to provide to you the results of the enclosed performance audit of the Department of Elementary and Secondary Education. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2021 through June 30, 2023. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the Department of Elementary and Secondary Education. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team has any questions.

Best regards,



Diana DiZoglio
Auditor of the Commonwealth

cc: Katherine Craven, Chair of the Massachusetts Board of Elementary and Secondary Education

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LIST OF ABBREVIATIONS

CFR	Code of Federal Regulations
DCF	Department of Children and Families
DESE	Department of Elementary and Secondary Education
IEP	Individualized Education Program
MCAS	Massachusetts Comprehensive Assessment System
MOU	memorandum of understanding
OSEP	US Department of Education’s Office of Special Education Programs
PRS	Problem Resolution System
SSP	Safe Schools Program for LGBTQ Students

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Department of Elementary and Secondary Education (DESE) for the period July 1, 2021 through June 30, 2023.

The purpose of our audit was to determine the following:

- Did DESE ensure that all special education complaints were investigated within the 60-day timeframe required by Section 300.152 of Title 34 of the Code of Federal Regulations and that all appropriate corrective actions were implemented by school districts within the timeframes it established?
- To what extent did DESE collaborate with the Safe Schools Program for LGBTQ Students (SSP) to provide trainings for school district employees on LGBTQ issues, in accordance with the memorandum of understanding (MOU) between DESE and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013?
- Did DESE investigate reports of alleged child abuse or neglect involving licensed educators that were referred by the Department of Children and Families (DCF), in accordance with the MOU between the two agencies that was effective September 15, 2020?

Below is a summary of our findings, the effects of those findings, and our recommendations, with hyperlinks to each page listed.

Finding 1 Page 19	DESE did not ensure that it obtained necessary information from DCF to determine whether alleged child abuse or neglect warranted licensed educator disciplinary actions or licensing investigations.
Effect	Because DESE did not enforce the terms of the MOU effective September 15, 2020, establish reliable data-sharing practices, or follow up on incomplete information, it compromised its duty to investigate supported allegations of abuse or neglect involving licensed educators. As a result, DESE may have risked putting or keeping students in harmful educational settings.

Recommendations Pages <u>21</u>	<ol style="list-style-type: none"> 1. DESE should request and obtain from DCF the corresponding 51A and 51B reports associated with the spreadsheets DCF provided in July 2023. DESE should also conduct appropriate investigations into any supported findings of child abuse or neglect involving individuals who may hold or have applied for a Massachusetts educator license and take necessary action when appropriate. 2. DESE should implement a centralized process for receiving, tracking, and managing all 51A and 51B reports from DCF. This process should record receipt dates, responsible reviewers, follow-up actions taken, and case statuses. 3. DESE should develop and implement procedures to reconcile reports received from DCF with internal records in a timely manner. This would ensure that all required reports are received, reviewed, and appropriately acted upon. 4. DESE should work with DCF to revise or reinforce the MOU that was effective starting on September 15, 2020 in order to establish clear expectations regarding the format and content of report transmissions. This should include a mechanism for escalating concerns when data is missing, delayed, or incomplete. 5. DESE should implement a review process to ensure that all required information is included before accepting reports from DCF. Any incomplete reports should be promptly flagged and returned for revision.
Finding 2 Page <u>23</u>	<p>DESE violated federal regulations by failing to investigate and resolve all special education complaints regarding the state’s school districts within the required 60-day timeframe.</p>
Effect	<p>Delays in investigating and resolving special education complaints prevent students from receiving the timely support and services that they are entitled to under federal law, which may negatively impact their educational progress. These delays can also leave caregivers feeling frustrated and unheard, eroding trust in DESE’s complaint resolution process.</p>
Recommendations Page <u>25</u>	<ol style="list-style-type: none"> 1. DESE should develop and implement written policies and procedures, including effective monitoring controls, to ensure that special education complaint investigations and resolutions are completed within the federally required 60-day timeframe. 2. DESE should assess its current personnel levels, resources, and processes to ensure that they are adequate to manage the increased volume of special education complaints. 3. DESE should clearly communicate its expressed needs to the Massachusetts Legislature and the Office of the Governor to help ensure that it can fully comply with federal regulations governing the investigation of special education complaints.
Finding 3 Page <u>29</u>	<p>DESE did not always ensure that school districts implemented special education corrective action plans within its established timeframes.</p>
Effect	<p>If DESE does not ensure that school districts implement corrective action plans in a timely manner, then students may continue to experience delays in receiving special education services. This may negatively impact their educational progress and deny them remedies for the school’s noncompliance. In addition, inaccurate or missing data in DESE’s tracking system weakens oversight and limits DESE’s ability to hold school districts accountable for timely implementation of corrective action plans.</p>
Recommendations Page <u>31</u>	<ol style="list-style-type: none"> 1. DESE should develop and implement written policies, procedures, and monitoring controls to ensure that school districts implement corrective action plans within established timeframes. 2. DESE should implement a verification process to ensure the accuracy and completeness of information entered into its tracking system.

Finding 4a Page 34	DESE did not issue the required annual communication to school leaders on creating safe and supportive environments for LGBTQ students.
Effect	Without annual communication from DESE, school superintendents and principals may not have current guidance and awareness of resources available to support LGBTQ students. This lack of communication could limit the ability to create safe and supportive school environments for LGBTQ students.
Finding 4b Page 35	DESE did not deliver the required biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education.
Effect	If DESE does not deliver this presentation to the Board of Elementary and Secondary Education, then trustees may lack current information and an awareness of the needs of LGBTQ youth. This lack may hinder informed decision-making, limit the board's ability to advocate for necessary resources, and reduce the effectiveness of policies aimed at improving the safety and well-being of LGBTQ students in Massachusetts schools.
Finding 4c Page 35	DESE did not ensure that all school districts received training for the Safe Schools Program for LGBTQ Students, including some that had requested it.
Effect	If DESE does not ensure that all school districts receive training for the SSP program, then school personnel members may not receive the necessary knowledge and tools to support LGBTQ students effectively. This may contribute to uneven implementation of inclusive practices across school districts and may hinder efforts to ensure safe and supportive school environments for all students.
Recommendations Page 37	<ol style="list-style-type: none"> 1. DESE should develop, document, and implement monitoring controls to ensure that all key deliverables outlined in the MOU between it and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013 (such as the annual communication to school leaders on creating safe and supportive environments for LGBTQ students and the biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education), are completed. 2. DESE should oversee school districts' proactive outreach concerning LGBTQ-related training and collaborate with the Massachusetts Commission on LGBTQ Youth to enhance awareness of SSP training and its value across school districts. 3. DESE should assess current barriers to SSP training delivery and explore ways to reach more school districts, particularly those that have expressed interest but have not received training. 4. DESE should maintain comprehensive documentation for all quarterly joint meetings with the Massachusetts Commission on LGBTQ Youth, including agendas, minutes, and attendance records, to better track and monitor progress on issues identified in this report and other areas needing improvement.

In addition to the conclusions we reached regarding our audit objectives, we also identified issues not specifically addressed by our objectives regarding DESE's oversight of charter school trustees and its role in overseeing special education settlement agreements, especially those that use non-disclosure, non-disparagement, or similarly restrictive clauses. See [Other Matters](#) for more information.

OVERVIEW OF AUDITED ENTITY

The Department of Elementary and Secondary Education (DESE), established by Section 1A of Chapter 69 of the Massachusetts General Laws, falls under the Commonwealth’s Executive Office of Education. The Commissioner of Elementary and Secondary Education serves as DESE’s lead administrator. DESE is responsible for overseeing the education of children from prekindergarten through grade 12 in Massachusetts. According to its website, DESE “provides leadership, oversight, funding, support, and accountability for the Commonwealth’s approximately 400 school districts that educate close to 1 million public school children each year.”

One of DESE’s responsibilities includes administering the Massachusetts Comprehensive Assessment System. See [Appendix A](#) for more information.

DESE received state appropriations of approximately \$6.43 billion in fiscal year 2022 and \$7.18 billion in fiscal year 2023. DESE’s main office is located at 135 Santilli Highway in Everett.

Special Education

Special education refers to specially designed instruction that addresses the unique needs of students with disabilities. In Massachusetts, special education is governed by both federal and state laws. At the federal level, the Individuals with Disabilities Education Act guarantees “a free appropriate public education to eligible children with disabilities throughout the nation,” according to the US Department of Education’s website. At the state level, Chapter 71B of the General Laws expands on these federal requirements by providing additional protections and procedures to ensure that students with disabilities across the Commonwealth receive the support they need to succeed in school.

As the state’s education authority, DESE is responsible for ensuring that schools comply with all federal and state special education laws. Every three years, each school district, charter school, vocational school, and virtual school undergoes an audit conducted by DESE, which is known as the Tiered Focused Monitoring Review. According to DESE’s website,

[The Tiered Focused Monitoring Review] process emphasizes elements most tied to student outcomes, and alternates the focus of each review on either Group A Universal Standards or Group B Universal Standards.

Group A Universal Standards address:

- *[Special education] student identification*
- *[Individualized Education Program] development*
- *Programming and support services*
- *Equal opportunity*

Group B Universal Standards address:

- *Licensure and professional development*
- *Parent/student/community engagement*
- *Facilities and classroom observations*
- *Oversight*
- *Time and learning*
- *Equal access*

The Tiered Focused Monitoring Review consists of two main phases: a self-assessment phase and an on-site verification phase. In the self-assessment phase, schools are asked to review and submit special education documentation (e.g., policies, procedures, and student records) to DESE for review. During the on-site verification phase, DESE conducts a detailed review of student records, surveys completed by the caregivers¹ of students with disabilities, and additional documents. DESE also interviews personnel members and caregiver advisory council representatives and observes classrooms and school facilities to assess compliance with special education requirements. After the on-site visit, DESE provides a report summarizing any findings. If there are any findings, schools are required to develop either a Continuous Improvement and Monitoring Plan or a Corrective Action Plan to address any areas of noncompliance.

Individualized Education Program

An Individualized Education Program (IEP) is the primary tool used in special education to ensure that students with disabilities receive specially designed instruction tailored to their unique needs. It is a legally binding, written document that outlines special education services, support, accommodations, and goals needed and/or appropriate to individual students based on their disabilities. While individual schools and school districts are directly responsible for developing and implementing IEPs, DESE oversees compliance

1. For the purposes of this audit report, we use the term caregiver to refer to an adult who cares for a child or children, including, but not limited to, parents, foster parents, stepparents, grandparents, and guardians (unless stated otherwise).

with special education laws; provides guidance and training to personnel members and caregivers; and offers dispute resolution services to ensure that students receive appropriate support.

The process of developing and implementing IEPs is governed by the Individuals with Disabilities Education Act and begins with the identification of a student who may require special education services. The identification of a student with disabilities is followed by a comprehensive evaluation and a determination of eligibility. If the student is found eligible, an IEP team—comprising personnel members, caregivers, specialists external from the school district/school, and sometimes the student—convenes to develop the IEP. Caregiver consent is required before the IEP can be implemented. Once in place, the IEP team reviews the IEP at least annually to monitor the student’s progress and make any necessary adjustments to accommodate evolving educational needs. If a caregiver disagrees with any part of the IEP or the student’s placement, then they can explore different dispute resolution options, including having informal discussions with the local school district or filing a formal complaint with DESE’s Problem Resolution System (PRS) Office. Caregivers may also pursue mediation or request a due process hearing, both of which are handled by the Bureau of Special Education Appeals, a unit within the Division of Administrative Law Appeals.² Caregivers can also appeal a hearing decision to federal or state court.

According to the Bureau of Special Education Appeals’ website, special education mediation, which is confidential and free, can be requested by either caregivers or school district personnel members. During mediation, a neutral third party moderates a discussion between caregivers and school district personnel members that includes sharing and understanding the issues, identifying possible solutions, and working collaboratively toward an agreement that supports the student’s educational needs. If the parties reach a resolution, then the mediator documents in writing the agreed-upon terms. If the parties do not reach an agreement, then the mediator outlines other options.

While mediation discussions are confidential by law, we have been advised by stakeholders that some school districts use special education settlement agreements that include non-disclosure, non-disparagement, or similarly restrictive clauses as part of these resolutions. This issue has also been reported in a *Boston Globe* article published on November 12, 2024.³ These non-disclosure, non-

2. According to its website, the Division of Administrative Law Appeals, which is under the purview of the Executive Office for Administration and Finance, “is an independent agency that conducts due process . . . hearings to resolve disputes . . . concerning eligibility, evaluation, placement, [IEPs], special education services and procedural protections for students with disabilities.”

3. The article in question can be found by visiting <https://www.bostonglobe.com/2024/11/12/metro/boston-massachusetts-autism-dyslexia-students-private-school-special-education/>.

disparagement, or similarly restrictive clauses, which go beyond the standard legal confidentiality of mediation, may be included in the final resolution if both parties agree. These clauses typically restrict the sharing of the agreement's terms outside of the mediation process. As part of this audit, we asked DESE to clarify its role and any oversight it provides concerning the use of non-disclosure, non-disparagement, or similarly restrictive clauses in special education settlement agreements. DESE informed us that it does not participate in the mediation process and is not made aware of the details of any signed agreements between school districts and caregivers. As a result, there is currently no mechanism in place to hold school districts accountable for their use of settlement agreements containing non-disclosure, non-disparagement, or similarly restrictive clauses. (See [Other Matters](#) for more information.)

Special Education Complaints

DESE uses its PRS to investigate and resolve complaints from the public concerning students' educational rights and compliance with laws governing both special and general education. DESE's PRS Office, which oversees DESE's PRS, has the authority to investigate potential violations of Part B of the Individuals with Disabilities Education Act and relevant state laws and regulations. People can submit complaints via DESE's PRS online complaint portal, email, traditional mail, fax, or in-person means. Complaints submitted to DESE's PRS Office must contain a description of the allegation that the school district, school, or public agency has not complied with federal or state special education laws or regulations and that the alleged noncompliance occurred within one calendar year of the submission of the complaint.

According to DESE's website, the PRS Office's mission statement is as follows:

The [PRS] Office ensures that students, families, school districts, and other community members have easy access to information regarding learners' rights and educational options and to a forum for the resolution of disputes that is prompt, accurate and fair.

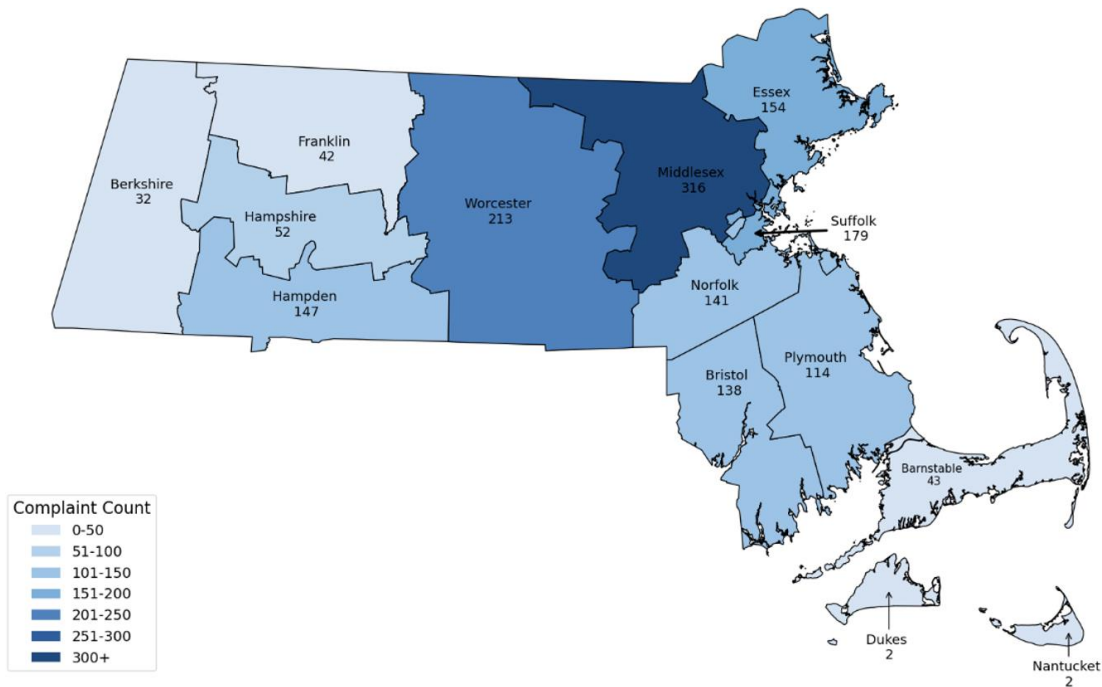
When reviewing a special education complaint, the PRS Office may conduct interviews and request documentation to make an independent determination of whether any noncompliance occurred. Once the PRS Office completes its investigation, it issues a written decision within the required 60 calendar days of the date of the complaint intake, unless DESE grants an extension. According to Section 300.152(b)(1) of Title 34 of the Code of Federal Regulations (CFR), DESE can grant an extension if "exceptional circumstances exist with respect to a particular complaint" or if the parties are engaged in mediation and agree to an extension. If an extension is granted, then the PRS Office documents this with a Letter of Extension. The written decision, called a Letter of Finding, includes findings and the reasons for the PRS

Office’s final determination. Any noncompliance that the PRS Office identifies must be corrected by the school district as soon as possible, and no later than one year from the date of the Letter of Finding, in accordance with 34 CFR 300.600(e). Although school districts have up to one year to correct noncompliance under federal regulations, DESE, through its PRS Office, often establishes shorter deadlines on a case-by-case basis to promote timely resolution; Under DESE’s timeframes, the PRS Office assigns specific due dates for each required remedy type. (See the “DESE-Established Internal Guidance for Corrective Action Due Dates” table for more information.) Minor procedural corrections are typically due within weeks, while broader actions such as school district-wide policy revisions or personnel member trainings are generally due within a few months. According to DESE officials, if a school district fails to meet the deadline set by the PRS Office, PRS Office staff records any enforcement actions taken in the PRS complaint portal. Once the PRS Office determines that the school district or school has fully implemented all required remedies, it issues a Letter of Closure, documenting the steps taken and officially closing the complaint.

According to data we obtained from the PRS complaint portal, the following map illustrates the number of unique special education complaints⁴ filed with DESE’s PRS Office by county during the audit period. This data only includes special education complaints involving individual students and does not include systemic complaints involving groups of students, schools, and/or classrooms.

4. A unique special education complaint refers to an individual complaint found in the PRS complaint portal. This means that there may be more than one special education complaint that involves the same special education student. For example, if one student is the subject of five special education complaints, then this would count as five in our population of special education complaints (instead of one).

Unique Special Education Complaints Filed by County During the Audit Period



Safe Schools Program for LGBTQ Students

The Safe Schools Program for LGBTQ Students (SSP) is a partnership between DESE and the Massachusetts Commission on LGBTQ Youth. According to the Massachusetts Commission on LGBTQ Youth's website, the SSP, which started in 1993, provides the state's public schools with guidance and training to school personnel members on issues affecting LGBTQ school community members. Guidance and training topics include bullying prevention, gender identity, sexual orientation, and strategies for creating welcoming and respectful school settings. Additionally, according to DESE's website, the SSP offers the following services at no cost to school districts:

- *Training on fostering inclusive and affirming school environments.*
- *Support for transgender, nonbinary and gender-diverse students and staff.*
- *Guidance on implementing equitable policies and practices.*
- *Strategies for strengthening family engagement.*
- *Advancing inclusivity in physical education and sports.*
- *Addressing community concerns about LGBTQ-related content in curricula through clear communication and education.*

The Massachusetts Commission on LGBTQ Youth provides funding and oversight for SSP personnel members, delivers technical support, and organizes trainings in response to school district requests in collaboration with DESE. DESE promotes these opportunities through its website, conferences, and webinars. According to DESE management, the SSP typically fulfills between 150 and 175 training requests annually. Participation in SSP training is not mandatory and attendance is not tracked. School districts voluntarily opt in to SSP training by submitting requests, and SSP personnel members assign trainers accordingly.

According to the SSP website, school districts can request trainings via the website's online form, email, telephone, or in-person means. SSP personnel members review these requests on a weekly basis and assign either internal SSP personnel members or external consultants as trainers. The training content is then tailored to align with each school district's goals. Following a training session, SSP personnel members conduct a debrief with the trainers and provide feedback to help improve future offerings.

The SSP operates under a memorandum of understanding (MOU) between DESE and the Massachusetts Commission on LGBTQ Youth. As part of this agreement, the two agencies jointly develop and send out an annual communication to school superintendents and principals that encourages them to proactively create supportive school climates and highlights available resources. Additionally, the two agencies jointly host a presentation to the Board of Elementary and Secondary Education at least once every 24 months, sharing data from the Massachusetts Youth Risk Behavior Survey⁵ and summarizing collaborative efforts under the MOU. To monitor progress and effectiveness of the SSP, senior personnel members from both DESE and the Massachusetts Commission on LGBTQ Youth also meet quarterly to review SSP implementation, evaluate outcomes, and discuss potential modifications to strengthen the program.

Investigation of Allegations of Child Abuse or Neglect

Whenever allegations of child abuse or neglect are made within a school setting, 51A and 51B reports are created. DESE receives 51A and 51B reports from the Department of Children and Families (DCF) under an MOU between the two agencies.

5. According to DESE's website, the Massachusetts Youth Risk Behavior Survey "was developed by the Centers for Disease Control and Prevention to monitor priority health risk behaviors that contribute to the leading causes of death, disease, injury, and social problems among youth."

- A 51A report documents an allegation of child abuse or neglect and is submitted to DCF by mandated reporters⁶ or the public, as required under Section 51A of Chapter 119 of the General Laws. DCF preliminarily reviews each 51A report to determine whether an investigation is warranted. At the conclusion of this preliminary review, one of two actions can happen:
 - If DCF determines that the allegations in the 51A report do not meet DCF's criteria for suspected child abuse and/or neglect, then DCF screens out (i.e., closes) the report.
 - If DCF determines that the allegations in the 51A report do meet DCF's criteria for suspected child abuse and/or neglect, then DCF screens in (i.e., continues) the 51A report and begins its 51B investigation.
- A 51B report documents a 51B investigation. A 51B report details DCF's conclusions as to whether there is reasonable cause to believe that a child has been abused or neglected.

DCF informs DESE when an investigation identifies possible misconduct involving a DESE-licensed individual. DESE personnel members review the reports to confirm that the individual in question holds a valid license. If so, DESE initiates an internal inquiry focused on potential licensing violations. DESE's focus is to review the conduct of the licensed educator and determine whether further action is warranted against the educator's license.

DESE has no statutory deadlines for concluding these investigations. DESE explained that the pace depends on factors such as the complexity of the allegations and the availability of supporting documentation. If, after reviewing all evidence, DESE concludes that a licensed educator's conduct does not meet licensure standards, then DESE personnel members forward the matter to the commissioner for further action. This can include licensure suspension or revocation. DESE does not generally become involved in employment decisions at the school district or school level, as those decisions are made locally.

Oversight of Charter School Boards of Trustees

DESE is responsible for appointing and overseeing charter schools' boards of trustees in the Commonwealth, according to Section 1.06(1)(b) of Title 603 of the Code of Massachusetts Regulations. Under these regulations, DESE also ensures that each charter school maintains appropriate governance practices.

6. Mandated reporters are obligated to report suspected abuse and/or neglect. They include, but are not limited to, medical doctors, police officers, schoolteachers, school administrators, and guidance counselors. For a full definition, see Section 21 of Chapter 119 of the General Laws and Section 3.03 of Title 118 of the Code of Massachusetts Regulations.

To manage the process of appointing and overseeing trustees, DESE uses an information technology system that collects and tracks data on charter school trustees. This system allows schools to submit required documentation (e.g., resumes) for both new and established trustees.

DESE also uses the information technology system to distribute and collect conflict of interest material acknowledgement forms and financial disclosure forms, as required under state conflict of interest laws. Every year, charter school trustees must file both these forms to alert the state if, in the prior year, they or a family member had a financial interest in any charter school in the nation or with any person doing business with any charter school in the nation. Established trustees must file both these forms annually; new trustees must file their forms within 30 days of becoming a trustee. If a trustee reports a potential conflict of interest, DESE directs the individual to seek an advisory opinion from the State Ethics Commission to determine whether further action is needed.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Department of Elementary and Secondary Education (DESE) for the period of July 1, 2021 through June 30, 2023.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did DESE ensure that all special education complaints were investigated within the 60-day timeframe required by Section 300.152 of Title 34 of the Code of Federal Regulations (CFR) and that all appropriate corrective actions were implemented by school districts within the timeframes it established?	No; see Findings <u>2</u> and <u>3</u>
2. To what extent did DESE collaborate with the Safe Schools Program for LGBTQ Students (SSP) to provide trainings for school district employees on LGBTQ issues, in accordance with the memorandum of understanding (MOU) between DESE and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013?	To an insufficient extent; see Finding <u>4</u>
3. Did DESE investigate reports of alleged child abuse or neglect involving licensed educators that were referred by the Department of Children and Families (DCF), in accordance with the MOU between the two agencies that was effective September 15, 2020?	No; see Finding <u>1</u>

To accomplish our audit objectives, we gained an understanding of DESE's internal control environment relevant to our objectives by reviewing applicable policies and procedures, DESE's internal control plan, and relevant MOUs, as well as by conducting interviews about and observations of the PRS online complaint portal, abuse and neglect reporting processes, and SSP processes with DESE management and employees. In addition, to obtain sufficient, appropriate evidence to address our audit objectives, we performed the procedures described below.

Special Education Complaints

Timeliness of Investigations

To determine whether DESE ensured that all special education complaints were investigated within the 60-day timeframe required by 34 CFR 300.152, we took the following actions. First, we extracted a list of the total population of 1,877 special education complaints reported to DESE during the audit period from the Problem Resolution System (PRS) online complaint portal. From this list, we selected a random, statistical⁷ sample of 60 special education complaints, using a 95% confidence level,⁸ a 0% expected error rate,⁹ and a 5% tolerable error rate.¹⁰

For each of the special education complaints in our sample, we compared certain dates (i.e., those of complaint intakes; investigation extensions granted, if applicable; Letters of Finding; and Letters of Closure) within certain documentation (i.e., emails, Letters of Extension, Letters of Finding, Letters of Closure, and requests for documentation) to ensure that these dates matched the same dates recorded within the PRS online complaint portal.

We compared each intake date to the dates of the Letters of Finding and Letters of Closure to determine whether DESE completed each special education complaint investigation within the required 60-day timeframe. In instances where the 60-day timeframe was exceeded, we reviewed the case file and any related correspondence to determine whether the case file contained evidence of an extension. If such an extension existed, then we used the extension due date in our timeliness calculation.

For this aspect of our objective, we found certain issues during our testing. See [Finding 2](#) for more information.

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7. Auditors use statistical sampling to select items for audit testing when a population is large (usually over 1,000) and contains similar items. Auditors generally use a statistical software program to choose a random sample when sampling is used. The results of testing using statistical sampling, unlike those from judgmental sampling, can usually be used to make conclusions or projections about entire populations.
 8. Confidence level is a mathematically based measure of the auditor's assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.
 9. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor's knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.
 10. The tolerable error rate (which is expressed as a percentage) is the maximum error in the population that is acceptable while still using the sample to conclude that the results from the sample have achieved the objective.

Implementation of Corrective Actions

To determine whether DESE ensured that all appropriate corrective actions were implemented by school districts within the timeframes it established, we took the following actions. From the list of 1,877 special education complaints, we identified the population of 629 complaints requiring corrective actions by either the school district or the school. From the list of 629 complaints requiring corrective actions, we selected a random, nonstatistical¹¹ sample of 50 complaints requiring corrective actions.

For each complaint requiring corrective actions in our sample, we compared certain dates (i.e., those of corrective action plans; DESE's corrective action plan receipt; and investigation extensions granted, if applicable) within certain documentation (i.e., emails, Letters of Extension, Letters of Finding, Letters of Closure, and document request letters) to ensure that these dates matched the same dates recorded within the PRS online complaint portal.

We compared each corrective action plan's original due date, as established by DESE, to the date on which the school district submitted its corrective action plan. In instances when the submission date exceeded the original due date, we reviewed the case file and any related correspondence to determine whether the case file contained evidence of an extension. If such an extension existed, then we used the extension due date in our timeliness calculation.

For this aspect of our objective, we found certain issues during our testing. See [Finding 3](#) for more information.

SSP

To determine to what extent DESE collaborated with the SSP to provide trainings for school district employees on LGBTQ issues, in accordance with the MOU between DESE and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013, we took the following actions. First, we interviewed DESE management to understand the policies and procedures related to SSP training available during the audit period for school district personnel members. We also interviewed officials from the SSP to assess the level of coordination with DESE in delivering trainings to school districts. We obtained and analyzed a list of all 397 Massachusetts school districts in existence during the audit period and all

11. Auditors use nonstatistical sampling to select items for audit testing when a population is very small, the population items are not similar enough, or there are specific items in the population that the auditors want to review.

180 SSP training requests made during the audit period. For each school district, we reviewed and categorized training activity as follows:

- SSP training was requested and received;
- SSP training was requested but not received; and
- no SSP training was requested or received.

To determine whether the commitments outlined in the MOU between DESE and the Massachusetts Commission on LGBTQ Youth were fulfilled during the audit period, we requested the following documentation:

- the annual joint communication sent to school superintendents and principals encouraging supportive school climates and highlighting available resources;
- presentation documentation for the joint presentations made to the Board of Elementary and Secondary Education, including any materials summarizing (1) data from the Massachusetts Youth Risk Behavior Survey and (2) collaborative efforts under the MOU;
- records of quarterly meetings held between senior personnel members from DESE and the Massachusetts Commission on LGBTQ Youth to monitor the implementation of the MOU and to discuss potential future modifications.

For this objective, we found certain issues during our testing; namely, that 251 (63%) school districts out of 397 had not received SSP training. See [Finding 4](#) for more information.

Investigation of Allegations of Child Abuse or Neglect

To determine whether DESE investigated reports of alleged child abuse or neglect involving licensed educators that were referred by DCF, in accordance with the MOU between the two agencies that was effective September 15, 2020, we took the following actions. First, we obtained spreadsheets listing 229 supported 51A and 51B reports¹² from DESE and 267 supported 51A and 51B reports from DCF. We interviewed DESE management and conducted a walkthrough of the intake and investigation process conducted by DESE's Office of Professional Practice Investigations. We also requested from DESE's Office of Professional Practice Investigations all case files and related documentation for the supported 51B reports to ascertain whether DESE completed an investigation corresponding to each report.

12. A 51A or 51B report is considered supported when it is one in which DCF concludes that there is reasonable cause to believe that a child has been abused or neglected.

For this objective, we found certain issues during our testing; namely, that (1) DESE's Office of Professional Practice Investigations did not open or track an investigation tied to the spreadsheet of supported 51B reports that DCF forwarded on July 20, 2023, and (2) DESE had no evidence of having compared its own list to DCF's or of following up on the missing or incomplete information. See [Finding 1](#) for more information.

We used a combination of statistical and nonstatistical sampling methods for testing. Where we used nonstatistical sampling methods, we did not project the results of our testing to any of the populations.

Data Reliability Assessment

Special Education Complaints

To determine the reliability of the complaint data within DESE's complaint resolution system, we took the following actions. First, we interviewed personnel members from DESE and the Executive Office of Technology Services and Security who were knowledgeable about the data. We reviewed System and Organization Control Reports¹³ covering the audit period. In addition, we tested access controls and security management over DESE's PRS online complaint portal. We tested the data to ensure that it did not contain certain dataset issues (i.e., duplicate records, missing values in necessary data fields, and data corresponding to dates outside the audit period).

SSP

We obtained a list of LGBTQ trainings hosted during the audit period from the SSP personnel members. We tested the list to ensure that it did not contain certain dataset issues (i.e., duplicate records, missing values in necessary data fields, and data corresponding to dates outside the audit period). We were unable to determine the completeness and accuracy of the list of LGBTQ trainings hosted during the audit period; however, this was the only source of information available to answer our audit objective.

We also obtained a list of all Massachusetts school districts from the DESE website. To assess this list's reliability, we selected a random sample of 20 school districts from the list and traced the school district name and address to publicly available information on each school district's website. We

13. A System and Organization Control report is a report issued by an independent contractor about a service organization's systems relevant to security, availability, processing integrity, confidentiality, and/or privacy.

selected a different random sample of 20 school districts from a list we generated using a search engine made publicly available from the National Center for Education Statistics and determined whether the school districts were present in the list. Additionally, we tested the list to ensure that it did not contain certain dataset issues (i.e., duplicate records and missing values in necessary data fields).

Investigation of Allegations of Child Abuse or Neglect

We obtained Microsoft Excel spreadsheets of 51A and 51B reports from both DESE and DCF for incidents that occurred during the audit period. From these spreadsheets, we identified the records of reports that corresponded to only cases that resulted in needing 51B reports—DESE’s records showed 229 supported reports and DCF’s records showed 267 supported reports. We followed up with both DESE and DCF management to determine why these discrepancies existed. See [Finding 1](#) for more information.

Based on the results of the data reliability assessment procedures described above, we determined that the information we obtained during the course of our audit was sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Department of Elementary and Secondary Education did not ensure that it obtained necessary information from the Department of Children and Families to determine whether alleged child abuse or neglect warranted licensed educator disciplinary actions or licensing investigations.

During the audit period, the Department of Elementary and Secondary Education (DESE) did not receive any supported 51A or 51B reports from the Department of Children and Families (DCF) as required under the memorandum of understanding (MOU) between the two agencies, effective September 15, 2020. These reports are intended to notify DESE of supported findings of abuse or neglect involving students in publicly funded schools, particularly when the alleged perpetrator may hold or have applied for a Massachusetts educator license. Instead, DESE accepted incomplete spreadsheets without requesting the necessary missing information to determine whether any licensed educator disciplinary actions or licensing investigations were warranted.

Although DESE ultimately received summary data from DCF after the audit period concluded, as further described below, the delay represents a significant departure from established reporting practices. Based on data DESE compiled for us upon our request, we determined that the agency would normally have received between 3 and 18 supported reports per month during the audit period.

A breakdown in communication between DESE and DCF began in February 2020 and continued undetected for 41 months, which included the entire audit period. It was not until July 2023, after the audit period ended, that DCF provided DESE with spreadsheets of data regarding allegations of child abuse and neglect, rather than providing actual 51A and 51B reports. These spreadsheets, which were intended to cover the period from February 2020 through April 2023, were severely limited in scope and missing critical information. Instead of providing full investigative reports, as required by the MOU in question, DCF shared spreadsheets containing only basic administrative data (e.g., the case identification number, the review/screening decision, the investigation decision, and the case worker's name). The spreadsheets did not include essential information that would have been found in full 51A and 51B reports, including, but not limited to, the following:

- regarding the alleged perpetrators: the names of the alleged perpetrators, their professional role, their educator license status, any history of prior DCF involvement, and sufficient details about the nature of the allegations;

- regarding the involved child: the name, date of birth, age, and address of the child involved; and
- regarding the report: details about the reporter, a clear description of the reported concerns or the reason for the intake, summarized interviews, the names of any individuals contacted, and investigative actions taken.

These omissions rendered the data virtually useless for DESE's purposes.

In response to our audit, DESE did contact DCF to seek additional details. However, as of the conclusion of our audit work, DESE confirmed that it had not initiated any investigations based on the information DCF provided. As a result, potentially serious and substantiated findings of child abuse or neglect, possibly involving licensed educators, remain unexamined and unaddressed.

Because DESE did not enforce the terms of the MOU effective September 15, 2020, establish reliable data-sharing practices, or follow up on incomplete information, it compromised its duty to investigate supported allegations of abuse or neglect involving licensed educators. As a result, DESE may have risked putting or keeping students in harmful educational settings.

Authoritative Guidance

According to the MOU between DESE and DCF, effective September 15, 2020,

PART A. Supported 51As and Bs in All Publicly Funded Schools and Programs

In support of the agencies' mutual interest and authority, pursuant to [Section 51B(I) of Chapter 119 of the General Laws] and [Section 4.45 of Title 110 of the Code of Massachusetts Regulations], DCF shall provide DESE all 51A and 51B reports supported during the previous month that included an allegation of abuse or neglect of a student enrolled in a publicly-funded school or program, regardless where such abuse or neglect occurred, by any individual (instructional or administrative) that DCF reasonably believes may be licensed by DESE. Such 51A and 51B reports shall be provided on a monthly basis by the last working day of the month after DCF's determination of abuse or neglect.

DESE shall review these reports and conduct its own investigation to determine whether the individual holds a Massachusetts educator license or has applied for one, and what, if any, action should be taken against the individual's educator license or application.

Reasons for Issue

DESE did not have a reliable process for tracking, receiving, and following up on reports of supported child abuse and neglect. Instead of using a centralized platform, DESE unofficially relied on receiving emails and ad hoc file transfers from DCF as part of its reporting process during the audit period. This means that

there was no official reconciliation process in place to verify that DESE received, reviewed, or acted upon the information DCF sent. This lack of a documented tracking process contributed to the gaps in communication and oversight outlined in this finding.

Recommendations

1. DESE should request and obtain from DCF the corresponding 51A and 51B reports associated with the spreadsheets DCF provided in July 2023. DESE should also conduct appropriate investigations into any supported findings of child abuse or neglect involving individuals who may hold or have applied for a Massachusetts educator license and take necessary action when appropriate.
2. DESE should implement a centralized process for receiving, tracking, and managing all 51A and 51B reports from DCF. This process should record receipt dates, responsible reviewers, follow-up actions taken, and case statuses.
3. DESE should develop and implement procedures to reconcile reports received from DCF with internal records in a timely manner. This would ensure that all required reports are received, reviewed, and appropriately acted upon.
4. DESE should work with DCF to revise or reinforce the MOU that was effective starting on September 15, 2020 in order to establish clear expectations regarding the format and content of report transmissions. This should include a mechanism for escalating concerns when data is missing, delayed, or incomplete.
5. DESE should implement a review process to ensure that all required information is included before accepting reports from DCF. Any incomplete reports should be promptly flagged and returned for revision.

Auditee's Response

DESE's educational vision includes that students attend safe and supportive schools that tend to their overall wellbeing. One important part of seeing to this vision is investigating supported reports of abuse and neglect brought against individuals who may hold or have applied for Massachusetts educators' licenses. Reports from the Department of Children and Families (DCF) to DESE's Office of Professional Practices Investigations (OPPI) are one source of information regarding alleged educator misconduct, along with reports from schools, law enforcement, the media, and licensees and applicants themselves.

As the employer of record, public school districts take necessary action when allegations of abuse or neglect arise, including removing educators from classrooms. In addition to providing the required notice to DCF, school administrators conduct internal investigations which can lead to employment actions, including putting an employee on leave or discharge of an employee. Once the district takes employment action—or if an educator resigns under such circumstances—the administrator is required to notify DESE.¹ As a result, most educator misconduct allegations that DESE receives come from public school districts. This notice can trigger an OPPI investigation, which may lead to action revoking or suspending a license.

Prior to February 2020 and for the past two years, since August 2023, DCF has been regularly providing monthly reports to DESE of abuse and neglect brought against individuals who may hold or have applied for Massachusetts educators' licenses and DESE has been investigating such reports upon receipt. Since the period of the audit, DESE has implemented systems to ensure regular receipt and investigation of relevant 51A and 51B reports and has worked cooperatively with DCF to ensure consistent compliance with the terms of the MOU between the agencies. DESE has set up internal monthly alerts to confirm receipt of the prior month's reports from DCF. If the reports are not received in a timely manner, DESE would reach out to DCF contacts. This has not proven necessary, as DCF has been consistently providing the reports.

OPPI staff also meet monthly specifically to review reports received from DCF. In addition, DESE has created two tracking systems. In the first, DESE compares a spreadsheet listing reports provided by DCF each month with the reports received. DESE has also created a second, more detailed system in which additional information is entered, including information regarding requests for fair hearings for DCF initial supported findings, the employment status of license holders, updates regarding the outcome of DCF investigations, and the status and final resolution of DESE investigations.

Until February 2020, DESE had regularly received paper copies of relevant supported 51A and 51B reports from DCF. Starting in March 2020, and during the COVID-19 pandemic, DESE no longer received these records.² In July 2023, DCF resumed complying with the terms of the MOU, beginning with the 51A and 51B reports electronically for May and June of 2023. DCF has now provided DESE all of the supported findings of abuse or neglect of a Massachusetts public school student for the period from February 2020 through April 2023. Most of these reports did not involve licensed educators. In those cases, DESE created person of interest (POI) files that will trigger review should these individuals ever apply for an educator license. Thirty-five of the seventy-nine reports from that period involved licensed educators. Of these, DESE had already opened investigations into 13. DESE is reviewing the remaining reports and will take appropriate action.

DESE takes its role of promoting safe and supportive schools seriously, in collaboration with DCF, school districts, law enforcement and other stakeholders. DESE has swiftly undertaken all of the Auditor's recommendations, reviewed the reports from February 2020 through April 2023, and strengthened internal systems to see that all reports were and continue to be reviewed in a timely manner.

[Footnotes:]

- 1. The regulations at [Section 7.15(8)(g) of Title 603 of the Code of Massachusetts Regulations] require licensed administrators to report to the education Commissioner the dismissal, resignation, or non-renewal of employment of a licensee for reasons that implicate the grounds for limiting a license.*
- 2. It is important to note the disruption in the normal function of state agencies at the beginning of 2020 with the start of the COVID-19 pandemic, the declaration of a nationwide emergency, and the shift to remote work.*

Auditor's Reply

We are pleased to see that DESE appears to have resumed the regular receipt of supported 51A and 51B reports from DCF and has begun to strengthen its internal systems to track and review these reports in a timely manner. We are also pleased to note that DESE has agreed to implement all of our recommendations. To ensure that these improvements are sustained over time and that the issues identified in this audit do not reoccur, it is critical that DESE institutionalize these changes by embedding them into written policies and procedures and by implementing ongoing oversight and accountability mechanisms.

In its response, DESE stated that 35 of the 79 supported 51B reports filed between February 2020 and April 2023 involved licensed educators, and that 13 of these cases had already resulted in investigations, presumably initiated through sources other than DCF, such as public school districts. However, DESE did not provide information on the status or outcomes of these 13 investigations. Furthermore, because this information was not provided to us during the audit, when we initially requested information such as this, we were unable to validate the claim that investigations were initiated for these cases during the course of our audit. We also note that, according to DESE, it did not investigate 22 of the cases from February 2020 through April 2023 that had supported 51B reports. Given the nature of these cases and the fact that these allegations were supported, it is essential that DESE promptly initiate investigations and take appropriate actions to safeguard students, thereby fulfilling its responsibilities under its MOU with DCF.

Based on its response, DESE has been taking measures to address our concerns regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

See [Appendix B](#) for more information on program improvements that DESE made and reported to us.

2. The Department of Elementary and Secondary Education violated federal regulations by failing to investigate and resolve all special education complaints regarding the state's school districts within the required 60-day timeframe.

During the audit period, DESE did not complete all investigations and issue written decisions resolving special education complaints within the federally mandated 60-day timeframe. Specifically, 24 of the 60 special education complaints from our sample exceeded the required timeframe. The delays ranged from 1 day to 325 days beyond the 60-day limit, with an average delay of 111 days. We projected these exceptions onto the entire special education complaint population of 1,877 using a 95% confidence level,

which suggested that the true proportions of noncompliance with the 60-day timeframe equated to at least 521 (28%) special education complaints.

Delays in investigating and resolving special education complaints prevent students from receiving the timely support and services that they are entitled to under federal law, which may negatively impact their educational progress. These delays can also leave caregivers feeling frustrated and unheard, eroding trust in DESE's complaint resolution process.

Authoritative Guidance

According to Section 300.152 of Title 34 of the Code of Federal Regulations (CFR),

- (a) Time limit; minimum procedures. Each [State Educational Agency (SEA)] must include in its complaint procedures a time limit of 60 days after a complaint is filed under [34 CFR 300.153] to—*
 - (1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary;*
 - (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;*
 - (3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum—*
 - (i) At the discretion of the public agency, a proposal to resolve the complaint; and*
 - (ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with [34 CFR 300.506];*
 - (4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the [Individuals with Disabilities Education Act] or of this part [of 34 CFR 300]; and*
 - (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—*
 - (i) Findings of fact and conclusions; and*
 - (ii) The reasons for the SEA's final decision.*
- (b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of [34 CFR 300.152] also must—*
 - (1) Permit an extension of the time limit under paragraph (a) of [34 CFR 300.152] only if—*

- (i) Exceptional circumstances exist with respect to a particular complaint; or*
 - (ii) The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of [34 CFR 300.152], or to engage in other alternative means of dispute resolution, if available in the State; and*
- (2) Include procedures for effective implementation of the SEA's final decision, if needed, including—*
 - (i) Technical assistance activities;*
 - (ii) Negotiations; and*
 - (iii) Corrective actions to achieve compliance.*

Reasons for Issue

DESE did not have formal policies and procedures, including monitoring controls, to ensure that special education complaints were investigated and resolved within the federally required 60-day timeframe. According to DESE officials, DESE did not investigate and resolve complaints within the required timeframe because of a significant increase in the volume of complaints, documentation, and time needed for review and determination from 2017 to the conclusion of our audit work. DESE officials further explained that this rise in filings was driven by three converging factors: (1) increased public awareness of the complaint process as information became more accessible through online guidance and community outreach; (2) lingering instructional disruptions and service gaps following the COVID-19 pandemic, which prompted more caregivers to pursue formal remedies; and (3) the growing complexity of individual complaints, with multiple issues frequently combined in a single submission, thereby requiring additional investigative effort.

Recommendations

1. DESE should develop and implement written policies and procedures, including effective monitoring controls, to ensure that special education complaint investigations and resolutions are completed within the federally required 60-day timeframe.
2. DESE should assess its current personnel levels, resources, and processes to ensure that they are adequate to manage the increased volume of special education complaints.
3. DESE should clearly communicate its expressed needs to the Massachusetts Legislature and the Office of the Governor to help ensure that it can fully comply with federal regulations governing the investigation of special education complaints.

Auditee's Response

DESE recognizes the importance of investigating and resolving special education complaints on time. Since the audit period, DESE has made significant improvements to its system for processing special education complaints to help increase the timeliness of its decisions. DESE has also been continuously engaged with experienced technical assistance providers to further enhance its practices in this area. As a result of these efforts, there has been a substantial reduction in the number of special education complaints pending over the 60-day deadline—with a reduction in backlog by almost 40% in the four months preceding the Auditor's Report.

Under the Individuals with Disabilities Education Act (IDEA), state educational agencies must have a state complaint system to resolve complaints raising allegations of violations of the IDEA Part B, which in Massachusetts is DESE's Problem Resolution System (PRS). Starting on or about 2017, before the audit period, PRS began to experience a significant increase in the number of complaints filed because of several factors, including increased public awareness and ease of access to the complaint process. This increase continued because of instructional disruptions and service gaps related to the COVID-19 pandemic.

As noted above, DESE has undertaken substantial efforts to enhance its state complaint system. Specifically, PRS engaged in ongoing improvement efforts to enhance its capacity and systems needed to timely and appropriately address each state complaint and any corrective action(s) within applicable timelines. PRS's improvement efforts included the following:

Expanded PRS Unit Capacity

- Starting in August 2022, PRS has approved voluntary staff requests to work for compensatory time or overtime, which allows staff to work beyond their contracted hours in further concerted effort to address the PRS complaint volume.*
- Starting in October 2023, DESE increased PRS capacity to timely and completely resolve state complaints through hiring four (4) additional full-time PRS liaison positions. DESE also added an (1) additional full-time PRS supervisor position to increase PRS capacity to conduct efficient reviews of issues and determinations.*
- Starting in March 2024, PRS restructured to include distinct Special Education and General Investigation Teams and a separate Corrective Action Team to further increase efficiencies and expertise.*
- Starting in June 2024, DESE added an (1) additional full-time PRS supervisor position to further increase PRS capacity to conduct efficient reviews of issues and determinations.*

Improved Policies [and] Procedures

- In December 2023, PRS issued written guidance to PRS supervisors and staff reminding them of PRS's obligations pursuant to [34 CFR 300.152].*
- In spring 2024, PRS staff completed a robust training series, which included a discussion of timeline requirements under IDEA Part B.*

- *Starting in July 2024, PRS launched new letter templates intended to streamline and clarify communications from PRS to Complainants and Districts.*
- *DESE continues to revise its Problem Resolution System Office Special Education Complaint Procedures Guide, releasing a new 2025 guide, which was reviewed by [U.S. Department of Education's Office of Special Education Programs (OSEP)], enhanced by public comment, and has since been implemented. PRS's fully compliant 2025 Special Education Procedures Guide may be found on DESE's website, which is [linked here](#).*
- *DESE also updated its official Notice of Procedural Safeguards in May 2025, which is the document that informs parents of students with disabilities about their rights and protections under the IDEA and must be provided to families by their districts at least once a year or in specific circumstances. The updates included a more full and clear explanation of the written state complaint procedures.*
- *To enhance its existing internal controls, PRS developed a comprehensive internal IDEA Part B State Complaints Investigator Guide, which is set to be implemented in the near future and will be followed by trainings with all PRS supervisors and investigators.*
 - *The internal guide was developed to provide guidance and increase consistency among staff responsible for investigating special education complaints on expectations regarding how to resolve complaints pursuant to IDEA Part B.*
 - *In addition to expectations, the guide also includes practice tips intended to further enhance DESE's timely and complete resolution of state complaints.*

Please note that prior to this Audit, from September 2023 to March 2024, [OSEP], the federal agency responsible for the enforcement of the IDEA, engaged with DESE and PRS through its system for differentiated monitoring and support (DMS). On January 16, 2025, OSEP issued its DMS Report, which identified certain areas of noncompliance, including a finding related to the timely resolution of state complaints. By the time of the January 16, 2025 report, DESE and PRS had already implemented significant improvements, which were highlighted by OSEP in its report.³ As a result of OSEP's findings, DESE and PRS have complied with all aspects of OSEP's ordered corrective actions and implemented all feedback provided by OSEP related to the findings on the state complaint system. . . .

[Footnote:]

3. *[DESE included the following quotation in this footnote.] "OSEP appreciates the State's continued efforts to improve the implementation of IDEA Part B and the development and implementation of a reasonably designed general supervision system which ensures compliance and improving results for students with disabilities."*

Auditor's Reply

In its response, DESE outlined steps it took—such as increasing staffing and revising policies and procedures—to address timeliness issues. We acknowledge these efforts. However, because these actions occurred after the close of the audit period, they do not affect the accuracy of our conclusion that, during the audit period, DESE did not resolve a substantial number of special education complaints within the required 60-day timeframe.

DESE attributes many of the delays to an increase in complaints since 2017, further exacerbated by the COVID-19 pandemic. While our audit report already acknowledges these challenges, it is important to emphasize that the Individuals with Disabilities Education Act does not provide exceptions to the 60-day complaint resolution requirement due to increased workload or staffing constraints. The obligation to investigate and resolve each complaint promptly remained in force during the audit period, regardless of external factors. We also note that these extenuating circumstances do not address the impacts on or needs of caregivers or students who are harmed by these delays.

Additionally, in accordance with generally accepted government auditing standards, we asked DESE about any ongoing or prior audits related to our audit objectives. Through this process, we became aware of the review conducted by the US Department of Education's Office of Special Education Programs (OSEP), which did not issue a report until January 16, 2025—approximately six months into our audit. OSEP's review covered a different timeframe and relied primarily on DESE's self-reported data from earlier years. In contrast, our audit was based on direct testing of complaint files from the PRS online complaint portal for the period July 1, 2021 through June 30, 2023. OSEP's report does not provide detailed information on the specific nature or the extent of delays in resolving special education complaints. Our detailed analysis offers deeper insight into the timeliness challenges DESE faced during the audit period.

Based on its response, DESE is taking measures to address our concerns regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

See [Appendix B](#) for more information on program improvements that DESE made and reported to us.

3. The Department of Elementary and Secondary Education did not always ensure that school districts implemented special education corrective action plans within its established timeframes.

During the audit period, DESE did not always ensure that school districts implemented special education corrective action plans within its established timeframes. Specifically, 13 (26%) of the 50 special education complaints requiring corrective actions in our sample had corrective action plans implemented after the established deadline. These delays ranged from 1 day to 270 days beyond the required timeframe, with an average delay of 94 days.

In one case, DESE took as long as 11 months to follow up with a school district regarding an overdue corrective action plan. In several other cases, follow-up was delayed by multiple months, significantly prolonging the resolution of identified noncompliance and potentially delaying the delivery of required services to students.

Additionally, within our sample of 50 special education complaints requiring corrective actions, we identified three data entry errors in DESE's tracking system: one where the corrective action plan's receipt date was recorded incorrectly; one where the corrective action plan's receipt date was not recorded at all, despite the fact that DESE received the plan; and one where the corrective action plan's due date was entered incorrectly.

If DESE does not ensure that school districts implement corrective action plans in a timely manner, then students may continue to experience delays in receiving special education services. This may negatively impact their educational progress and deny them remedies for the school's noncompliance. In addition, inaccurate or missing data in DESE's tracking system weakens oversight and limits DESE's ability to hold school districts accountable for timely implementation of corrective action plans.

Authoritative Guidance

According to 34 CFR 300.600,

(e) In exercising its monitoring responsibilities under paragraph (d) of [34 CFR 300.600], the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance.

DESE informed us that corrective action due dates are determined on a case-by-case basis, and that it uses the guidelines in the following table to assist in determining corrective action due dates.

DESE-Established Internal Guidance for Corrective Action Due Dates

Non-Compliance	Sample Remedy	Timeline
Minor Procedural	Memorandum	2 Weeks
Major Procedural	Training	2 Months
	Policy Change	4 Months
[Individualized Education Program] Implementation	Compensatory Services	Varies depending on amount of services ordered. Consider the impact of school break periods, holidays, etc.
Home/Hospital Tutoring	Tutoring Services	Varies depending on amount of services ordered. Consider the impact of school break periods, holidays, etc.
Bullying	Safety Plan	2 Weeks
	Investigation	2 Weeks
	Policy Change	4 Months
Discipline	Expunge Record	2 Weeks
	Revise Notices	1 Month
	Manifestation Determination	1 Month
	Measure Progress	1 Month

Source: Email from DESE, sent on May 22, 2025

Reasons for Issues

DESE did not have written policies and procedures, including monitoring controls, to ensure that school districts implemented corrective action plans in a timely manner. It also did not have sufficient controls to ensure the accuracy and completeness of the information related to corrective action plans that was entered into its tracking system. DESE told us that, although it established its own, shorter deadlines for corrective action plans, federal regulations—specifically, 34 CFR 300.600(e)—allowed up to one year from the identification of noncompliance to correct the issue. However, DESE did not explain why it repeatedly violated its own policies and, in some cases, violated the federal requirement to ensure that issues of noncompliance are corrected within one year of the date of the Letter of Closure.

Recommendations

1. DESE should develop and implement written policies, procedures, and monitoring controls to ensure that school districts implement corrective action plans within established timeframes.
2. DESE should implement a verification process to ensure the accuracy and completeness of information entered into its tracking system.

Auditee's Response

Please see [our response to Finding #2](#) on special education complaints above that outlines the substantial changes PRS made to its implementation of special education complaint decisions.

Highlights of these substantial changes include:

- *PRS has restructured to create a team dedicated to handling the implementation of final decisions to facilitate and verify the timely correction of identified noncompliance.*
- *Under this structure, following the issuance of a decision, a complaint is typically reassigned to a member of the team specifically tasked with overseeing the implementation of the ordered corrective action plan.*
- *In 2024, PRS staff received internal training on record keeping within the complaint management system to ensure records are timely, accurate, and consistent.*
- *In its 2025 IDEA Part B State Complaints Investigator Guide, PRS included written internal procedures for the effective implementation of the final decision to include technical assistance, negotiations, and corrective actions to achieve compliance that accurately reflects DESE's obligations regarding effective implementation of its final decisions.*
- *PRS decisions now specify a greater level of detail as to any compensatory services that are ordered, including the specific amount of services.*
 - *This modification assists with the faster delivery of compensatory services to students, allows the process to be more streamlined for complainants and local education authorities, and makes the verification of correction of noncompliance more thorough and efficient.*
- *Since the audit period, PRS has modified its complaint management database to better meet its corrective action verification needs. . . .*

In circumstances where PRS issues a finding of noncompliance, PRS may require the district, school, or public agency to implement corrective action(s). PRS has broad authority to determine the corrective action(s) necessary to resolve the noncompliance identified in a specific complaint. Noncompliance identified by PRS must be corrected by the district/school/public agency as soon as possible, and in no case later than one year after DESE identifies the noncompliance. See [34 CFR 300.600(e)].

Aside from the one-year requirement, all other corrective action due dates are determined by PRS on a case-by-case basis to facilitate a district's, school's or public agency's timely implementation of the ordered corrective action. The chart that PRS provided to the Auditor is an internal guide

used to assist PRS staff in establishing due dates for corrective action. These due dates typically range from weeks to months, depending on various factors, such as the nature and scope of the ordered corrective actions. They can also vary depending on the timing of holidays, school break periods, student/family circumstances, or other key factors that have the potential to delay implementation. . . .

DESE is responsible for verifying the implementation of ordered corrective action within one year of when it was ordered. PRS sets interim due dates to build in adequate time to obtain documentation from the district, review it, and/or utilize enforcement actions before the one-year requirement outlined in [34 CFR 300.600(e)]. If a district fails to meet the due date set by PRS, PRS will utilize DESE's model of enforcement to achieve compliance. DESE's model of enforcement is intended to be progressive, using the lowest levels of sanctions and/or enforcement necessary to address the noncompliance. DESE's progressive enforcement actions range from providing the entity with technical assistance and professional development to redirecting or withholding funding from the entity.

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 will not close the original finding until it has verified that the noncompliance has been corrected and may impose additional corrective actions and/or pursue enforcement actions, as it deems necessary.

This approach is consistent with the federal government's guidance on this topic.⁴ Further, DESE's General Supervision System contains additional accountability mechanisms that address local education authorities (LEAs) that fall into this category, which is also consistent with federal guidance.⁵ For example, PRS findings and related corrective action compliance are considered as a part of DESE's public school monitoring efforts and a part of the annual LEA determinations.

[Footnotes:]

- 4. See OSEP's State General Supervision Responsibilities Under Parts B and C of the IDEA (B-17). "What factors should a State consider if [a Local Education Agency "LEA"] . . . has longstanding noncompliance with the IDEA requirements? Answer: If an LEA . . . did not correct identified noncompliance in a timely manner (i.e., within one year from the written notification of noncompliance), the State must still verify that the noncompliance was subsequently corrected. If an LEA . . . is not yet correctly implementing the statutory or regulatory requirement(s), the State needs to identify the cause(s) of continuing noncompliance and take steps to address the continued lack of compliance, including, as appropriate, enforcement actions . . ."*
- 5. See Id. "If an LEA . . . is not yet correctly implementing the statutory or regulatory requirement(s), the State needs to identify the cause(s) of continuing noncompliance and take steps to address the continued lack of compliance including, as appropriate, enforcement actions outlined in Section E, State Enforcement Through Determinations and Other Methods [of OSEP's State General Supervision Responsibilities Under Parts B and C of the IDEA]." See also [34 CFR 300.626].*

Auditor's Reply

As already noted in this report, we acknowledge that federal regulations allow up to one year from the identification of noncompliance to correct issues. However, because DESE itself went beyond the federal regulations outlined in 34 CFR 300.600 with its own internal policies by establishing alternative deadlines for itself (deadlines that DESE acknowledged), we assessed DESE's performance based on its internal policies. The fact that DESE adopted these internal deadlines indicates that they were considered an important mechanism for driving timely compliance. Our testing identified instances in which these DESE-established deadlines lapsed without documented follow-up. Additionally, in two cases, the one-year federal limit was also exceeded by the school district and left unaddressed by DESE, confirming that the noncompliance issues that we identified in our audit extended beyond noncompliance with internal requirements and into noncompliance with federal requirements.

As indicated in DESE's response, corrective action due dates for school districts are determined by DESE on a case-by-case basis. When asked during the audit how these deadlines are established, we were provided with internal guidelines used by DESE staff, which are referenced above. However, DESE has not established these guidelines into formal policy. DESE explained that while staff use the guidelines to assist in setting deadlines, each case is considered individually and may vary due to a range of factors, such as the nature and scope of the corrective action, timing of holidays and school break periods, and specific student or family circumstances.

We believe DESE should formalize its current internal guidelines into written policy to ensure the process for establishing corrective action due dates is transparent, consistent, and clearly communicated to all stakeholders.

We strongly encourage DESE to implement our recommendations regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

See [Appendix B](#) for more information on program improvements that DESE made and reported to us.

4. The Department of Elementary and Secondary Education failed to fulfill certain commitments outlined in its memorandum of understanding with the Massachusetts Commission on LGBTQ Youth.

During the audit period, DESE did not effectively collaborate with the Massachusetts Commission on LGBTQ Youth to fulfill key responsibilities outlined in the MOU between the two agencies, effective September 18, 2013. Specifically, we found the following:

- DESE did not issue the required annual communication to school leaders on creating safe and supportive environments for LGBTQ students.
- DESE did not deliver the required biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education.
- DESE did not ensure that all school districts received training for the Safe Schools Program for LGBTQ Students (SSP), including some that had requested it.

As a result, school personnel members may not have had the guidance, training, or support needed to create safe and inclusive environments for LGBTQ students, potentially limiting the impact of statewide efforts to address the needs of this population.

a. The Department of Elementary and Secondary Education did not issue the required annual communication to school leaders on creating safe and supportive environments for LGBTQ students.

DESE did not develop or distribute the required annual communication to school superintendents and principals in calendar year 2023, as outlined in the MOU between it and the Massachusetts Commission on LGBTQ Youth. The last communication before this lapse was issued on February 17, 2022. The annual communication resumed in October 2024.

Without annual communication from DESE, school superintendents and principals may not have current guidance and awareness of resources available to support LGBTQ students. This lack of communication could limit the ability to create safe and supportive school environments for LGBTQ students.

Authoritative Guidance

According to the MOU between DESE and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013,

DESE and the Commission hereby agree that they will:

Section 1. Collaboratively develop an annual communication to school superintendents and principals to encourage schools to be proactive in creating safe school environments and identifying services and resources available to provide support and assistance for LGBT youth.

b. The Department of Elementary and Secondary Education did not deliver the required biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education.

DESE did not deliver the biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education during the audit period, as is required, according to the MOU between the two agencies. The most recent biennial presentation was delivered in April 2024 (after the end of the audit period), with the prior presentation occurring on June 27, 2017.

If DESE does not deliver this presentation to the Board of Elementary and Secondary Education, then trustees may lack current information and an awareness of the needs of LGBTQ youth. This lack may hinder informed decision-making, limit the board's ability to advocate for necessary resources, and reduce the effectiveness of policies aimed at improving the safety and well-being of LGBTQ students in Massachusetts schools.

Authoritative Guidance

According to the MOU between DESE and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013,

DESE and the Commission hereby agree that they will: . . .

Section 2. Jointly develop and deliver a presentation on LGBT youth to the Board of Elementary and Secondary Education at least every 24 months that will include information such as the [Massachusetts] Youth Risk Behavior Survey data and our collaborative efforts through this Memorandum of Understanding ("MOU").

c. The Department of Elementary and Secondary Education did not ensure that all school districts received training for the Safe Schools Program for LGBTQ Students, including some that had requested it.

During the audit period, only 146 (37%) of the 397 school districts in Massachusetts received SSP training. The remaining 251 (63%) school districts did not receive any SSP training. Among those school districts that did not receive training, we found the following:

- that 34 (14%) school districts actively requested SSP training but did not receive it and
- that 217 (86%) school districts neither requested nor received SSP training.

If DESE does not ensure that all school districts receive training for the SSP program, then school personnel members may not receive the necessary knowledge and tools to support LGBTQ students effectively. This may contribute to uneven implementation of inclusive practices across school districts and may hinder efforts to ensure safe and supportive school environments for all students.

Authoritative Guidance

According to the Massachusetts Commission on LGBTQ Youth's Report & Recommendations for Fiscal Year 2022 (as well as the same report for fiscal year 2023),

The goals of the Safe Schools Program for LGBTQ Students are to:

- *Increase the capacity of DESE and its units to better support LGBTQ students and inform policies impacting LGBTQ students;*
- *Increase knowledge, develop empathy and build skills of school personnel, student leaders, Gender and Sexuality Alliances (GSAs), and community members;*
- *Support the social and emotional well-being of LGBTQ students;*
- *Create and sustain safe and supportive school environments for LGBTQ students;*
- *Support parents, guardians, families, and community members;*
- *Provide leadership development and networking opportunities for students; and*
- *Reduce health disparities for LGBTQ students.*

As part of its Report & Recommendations for Fiscal Year 2022 (as well as the same report for fiscal year 2023), the Massachusetts Commission on LGBTQ Youth recommended that it and DESE collaborate to strengthen both (1) their own internal and (2) school district-level capacity for training and professional development regarding issues specifically concerning LGBTQ youth.

Reasons for Issue

According to DESE officials, during the latter part of the audit period, the SSP experienced significant personnel transitions, which included the departure of four full-time personnel members, which included key program leadership. This turnover substantially reduced program capacity at a critical time for follow-up activities and coordination of training efforts. DESE officials identified these personnel changes as the

primary cause of several issues that arose during the audit period, including (1) the lapse in issuing the 2023 annual communication to school leaders on creating safe and supportive environments for LGBTQ students and (2) the nondelivery of the biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education. After the previous program director left (which happened early in the audit period), a new program director was not onboarded until August 2023, shortly after the conclusion of the audit period, further impacting the program's inability to meet its obligations in a timely manner.

In addition, DESE did not develop, document, or implement monitoring controls to ensure that requirements outlined in the MOU between it and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013, were consistently met. For example, DESE was unable to provide documentation, such as agendas, minutes, attendance records, or any other records, to demonstrate that quarterly joint meetings between senior DESE and Massachusetts Commission on LGBTQ Youth personnel members, required under the MOU, had occurred during the audit period.

According to DESE officials, several factors contributed to the inability to deliver training to school districts that had requested it. In some cases, leaders from school districts or schools expressed initial interest, but DESE was unable to finalize the training due to shifting priorities, scheduling conflicts, or leadership changes. Additionally, although in-person learning resumed statewide in spring 2021 (after having switched to remote or hybrid learning models, due to the COVID-19 pandemic), many school districts continued to limit in-person gatherings well into the 2021–2022 school year due to ongoing COVID-19 precautions, which disrupted training logistics.

DESE officials stated that leaders from school districts and schools often face competing professional development priorities and may engage only when responding to a specific issue, local concern, or request for technical assistance. Some school districts may use alternative resources for LGBTQ-related training, such as regional collaboratives or internal efforts concerning diversity, equity, and inclusiveness issues, while others may not prioritize such training in the absence of visible advocacy or incidents, which is why proactive outreach concerning these trainings is so important for DESE to oversee.

Recommendations

1. DESE should develop, document, and implement monitoring controls to ensure that all key deliverables outlined in the MOU between it and the Massachusetts Commission on LGBTQ Youth, effective September 18, 2013, (such as the annual communication to school leaders on creating safe

- and supportive environments for LGBTQ students and the biennial presentation on LGBTQ youth to the Board of Elementary and Secondary Education) are completed.
2. DESE should oversee school districts' proactive outreach concerning LGBTQ-related training and collaborate with the Massachusetts Commission on LGBTQ Youth to enhance awareness of SSP training and its value across school districts.
 3. DESE should assess current barriers to SSP training delivery and explore ways to reach more school districts, particularly those that have expressed interest but have not received training.
 4. DESE should maintain comprehensive documentation for all quarterly joint meetings with the Massachusetts Commission on LGBTQ Youth, including agendas, minutes, and attendance records, to better track and monitor progress on issues identified in this report and other areas needing improvement.

Auditee's Response

DESE remains focused on ensuring that all school communities have access to high-quality training and resources that foster safe, supportive, and inclusive environments for LGBTQ students. DESE appreciates the Auditor's review and recommendations related to the Safe Schools Program for LGBTQ Students (SSP). . . .

DESE recognizes that during the audit period, there were instances where districts that expressed interest in SSP training did not ultimately receive it. While staffing transitions and the COVID-19 pandemic created challenges, DESE acknowledges the importance of strengthening systems for following up on training requests, holding joint meetings with the Massachusetts Commission on LGBTQ Youth (Commission), and issuing annual communications. These are key components of DESE's work, and DESE is working to enhance our consistency in these areas.

DESE agrees on the importance of ensuring that key deliverables outlined in the MOU with the Commission are completed consistently. Moving forward, DESE will develop and document internal processes to monitor and track completion of these deliverables, including the annual communication to school leaders and the biennial presentation to the Board of Elementary and Secondary Education. DESE sent the communication in 2022 and resumed the annual communication in October 2024. DESE plans to issue a communication for the 2025-26 school year, consistent with the terms of the MOU. The most recent biennial presentation was in April 2024.

With respect to training, DESE does not have oversight authority to require school districts to proactively offer LGBTQ-related training, but DESE recognizes its leadership role in promoting safe and supportive school environments. DESE will continue to collaborate closely with the Commission to improve outreach efforts and ensure districts understand the value of SSP training. DESE will also explore additional strategies to elevate awareness of available training opportunities among district and school leaders.

DESE acknowledges the need to understand and address barriers that may prevent districts from accessing SSP training. The agency will work with the Commission to evaluate factors contributing to these challenges and explore opportunities to reach more school districts, with particular attention to those that have expressed interest but have not yet participated in training.

With respect to documentation, DESE supports maintaining documentation of the quarterly joint meetings with the Commission called for in the MOU to improve continuity and accountability. DESE will implement practices to ensure that meeting records are prepared, retained, and used as a tool for tracking progress on shared priorities. DESE is committed to improving communication, consistency, and access to support.

Auditor's Reply

Based on its response, DESE is taking measures to address our concerns regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

See [Appendix B](#) for more information on program improvements that DESE made and reported to us.

OTHER MATTERS

1. The Department of Elementary and Secondary Education did not oversee the use of special education settlement agreements, including the use of non-disclosure, non-disparagement, or similarly restrictive clauses, by school districts.

During the course of our audit, we heard from multiple stakeholders who expressed concerns about the use of non-disclosure, non-disparagement, or similarly restrictive clauses in special education settlement agreements. These clauses, often included in agreements between caregivers and school districts, prohibit caregivers from discussing the terms of their settlements with other caregivers, in special education advisory councils, or in any other way that could make the terms of these agreements publicly known. A *Boston Globe* article published on November 12, 2024¹⁴ highlighted the widespread and inconsistent use of these agreements by showing significant variation in settlement values (e.g., tuition reimbursements) across school districts. This raises questions of equity and consistency in how school districts resolve special education disputes.

In response to these concerns, and as part of our audit, we asked the Department of Elementary and Secondary Education (DESE) to clarify its role in overseeing these agreements. We found that DESE does not collect or monitor data on settlement agreements or on the use of non-disclosure, non-disparagement, or similarly restrictive clauses. As a result, DESE has no visibility into the frequency or content of such agreements, nor the systemic issues they may cover up. This lack of oversight significantly impacts DESE's ability to assess compliance with federal and state special education laws, monitor equitable treatment across school districts, or identify reoccurring issues that might warrant further investigation.

The use of non-disclosure, non-disparagement, or similarly restrictive clauses also limits caregivers' abilities to share information and support one another. Caregivers who are unable to speak openly about their experiences are isolated from peer networks and advocacy groups, making it more difficult to navigate the special education system or recognize when systemic issues occur. This isolation can leave caregivers with no choice but to rely on attorneys or paid advocates to understand their rights and options, a process that can be expensive and inaccessible for many. These dynamics can create an

14. See Footnote 3 for more information.

inequitable environment in which access to fair outcomes may depend more on a caregiver's financial resources than on the merits of their child's educational needs.

Without appropriate oversight or data collection, DESE assumes a higher-than-acceptable risk that non-disclosure, non-disparagement, or similarly restrictive clauses could be used to resolve individual disputes while allowing systemic failures to persist. The lack of transparency inherently caused by non-disclosure, non-disparagement, or similarly restrictive clauses limits accountability to the public and undermines the principles of equity and access that are fundamental to public education.

To improve transparency and accountability in the handling of special education disputes, we strongly recommend that DESE develop, document, and implement oversight mechanisms and data collection regarding settlement agreements. This will allow DESE to monitor the use of non-disclosure, non-disparagement, or similarly restrictive clauses and identify any emerging patterns or systemic issues that may require further investigation. Specifically, we recommend the following:

1. DESE should require that school districts report key information about special education settlement agreements, including the use of non-disclosure, non-disparagement, or similarly restrictive clauses.
2. DESE should use collected data to identify trends related to the use of non-disclosure, non-disparagement, or similarly restrictive clauses; the frequency of settlements; and any disparities across school districts. This will help DESE assess whether there are systemic issues or inequities that need to be addressed.
3. As part of its annual public reporting on special education dispute resolution, DESE should publish aggregated data on settlements, including the use of non-disclosure, non-disparagement, or similarly restrictive clauses. This transparency would provide the public with critical insight into the nature of special education dispute resolution and promote greater school district accountability.

Auditee's Response

DESE's educational vision includes that students with disabilities receive carefully designed instruction that accelerates their growth towards learning goals. DESE appreciates the recommendations made in the Auditor's Report as to Matter 1 and will issue a reminder to school districts at the start of this school year about Champa v. Weston Public Schools, 473 Mass. 86 (2015). In Massachusetts, settlement agreements between a school district and the parents of a student who is eligible for special education services under the [Individuals with Disabilities Education Act (IDEA)] are public records once stripped of all personally identifiable information. See Champa v. Weston Public Schools, 473 Mass. 86 (2015). While these agreements are considered "education records" under [the Family Educational Rights and Privacy Act] and federal and Massachusetts special educational law protect the confidentiality of the education records of students with disabilities who receive special education services, records relating to students are not confidential once all personally identifiable information is removed. Id.⁶

As part of its general supervision duties under IDEA Part B, DESE collects data from the Bureau of Special Education Appeals regarding the percentage of mediations that result in written agreements, as required by the U.S. Department of Education.

It is important to note that there is no federal or state law or regulation that specifically requires DESE to oversee the "use" of special education settlement agreements by school districts, including any use of non-disclosure, non-disparagement, or similarly restrictive clauses in such agreements. In addition, there is no federal or state law or regulation that requires DESE to collect data regarding any use by school districts of the types of clauses referenced in the Auditor's Report. In making its recommendations, the Auditor's Report does not cite any legal obligation DESE has failed to perform. DESE is not a party to the special education settlement agreements referenced in the Auditor's Report and has not, and will not, enter into any special education settlement agreements that contain the types of clauses referenced in the Auditor's Report.

[Footnote:]

6. *As the Massachusetts Supreme Judicial Court explained, "[a]lthough the agreement may have served as a private settlement of a dispute between the school district and one of the families living in the school district, the fact that the school district and the family contractually agreed to keep the settlement private cannot, by itself, trump the public records law and the school district's obligation to comply with the law's requirements." Id. at 98.*

Auditor's Reply

In its response, DESE stated that it will remind districts that settlement agreements, once stripped of personally identifiable information, are public records. However, this step alone does not establish a mechanism for statewide monitoring of the use of these settlement agreements, nor does it ensure that patterns involving restrictive clauses are visible to caregivers, advocates, or policymakers. As noted above, without a coordinated effort to collect and analyze data related to these settlement agreements, concerning trends may go undetected. This issue highlights the need for a more structured and proactive approach to track and evaluate the use of special education settlement agreements, including the use of non-disclosure, non-disparagement, or similarly restrictive clauses across school districts.

We are aware that DESE is not legally required to oversee or collect data on these settlement agreements but raised this issue as an "Other Matter" since DESE does have oversight responsibility as the Commonwealth's sole agency charged with ensuring that school districts comply with the Individuals with Disabilities Education Act and Massachusetts special education laws. Increasing transparency and accountability through stronger oversight of the use of settlement agreements including the use of non-disclosure, non-disparagement, or similarly restrictive clauses is essential. Such oversight is critical to maintaining public trust, promoting equitable access to special education services, and ensuring that

school districts are held accountable regarding fair and consistent practices. Therefore, DESE should take stronger, more proactive measures to ensure effective oversight of special education settlement agreements. This approach would enable DESE to identify trends, provide targeted guidance, and intervene when necessary.

We strongly encourage DESE to implement our recommendations regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

2. The Department of Elementary and Secondary Education did not ensure that charter school trustees signed conflict of interest material acknowledgment forms and submitted required financial disclosure forms.

During the audit period, DESE did not ensure that charter school trustees signed annual conflict of interest material acknowledgment forms and submitted the required financial disclosure forms. State ethics laws, specifically Section 89(u) of Chapter 71 and Section 27 of Chapter 268A of the General Laws, require trustees to complete these forms annually to promote transparency, prevent conflicts of interest, and uphold ethical standards in charter school governance. However, DESE did not have an effective process in place to monitor compliance with these requirements. Specifically, we found that 13 (22%) of the 60 charter school trustees reviewed did not comply with the annual requirements for submitting conflict of interest material acknowledgment forms and/or financial disclosure forms. Of these 13 instances of noncompliance, 7 (54%) were missing one or more conflict of interest material acknowledgment forms, 5 (38%) were missing both conflict of interest material acknowledgment forms (one or more) and financial disclosures (one or more), and 1 (8%) was missing one financial disclosure form.

Without these documents, there is an increased risk that potential or actual conflicts of interest may go undetected and unaddressed, potentially influencing decision-making in ways that are not in the best interest of students, caregivers, or the public. Additionally, DESE's lapse in enforcing these requirements undermines accountability, reduces public trust in the oversight of charter schools, and may result in noncompliance with state ethics laws and policies.

DESE attributed the instances of noncompliance to confusion among trustees regarding the distinction between the ethics training notice, which is sent to state personnel members biennially, and the annual conflict of interest material acknowledgment forms, which is sent to state personnel members annually. DESE stated that trustees have also expressed concerns about opening unfamiliar emails and receiving duplicate notices.

While we acknowledge DESE's explanation that unfamiliar emails may have been a cause for concern for trustees, it remains DESE's responsibility to ensure that all charter school trustees complete and submit required annual conflict of interest material acknowledgment forms and financial disclosure forms. This should include conducting periodic reviews and following up with schools that have trustees who have not submitted these required forms to enforce adherence to these requirements. DESE should also take proactive steps so that trustees are clearly informed about all correspondence from DESE and feel confident in completing the required forms. This should include offering clearer guidance, additional support, and addressing concerns about emails that are unfamiliar (or perceived as duplicates, which we believe may refer to notices pertaining to biennial ethics training versus notices pertaining to annual conflict of interest material acknowledgments).

Auditee's Response

DESE recognizes the importance of ensuring that members of charter schools' boards of trustees sign annual conflict of interest material acknowledgement forms ("conflict of interest forms") and complete required financial disclosure forms ("financial disclosure forms"). Compliance with these requirements help prevent conflicts of interest and maintain high standards of ethical behavior in charter school governance.

The Commissioner of Elementary and Secondary Education is responsible for appointing members of charter school boards of trustees pursuant to [Section 89 (u)(ii) of Chapter 71 of the Massachusetts General Laws]. DESE implements a variety of cyclical processes to provide oversight of charter school boards of trustees, of which the Board Member Management System (BMMS) is one. Other processes include, but are not limited to, site visits, renewal inspections, annual reports, annual audits, and end of year financial reports. The role of the BMMS for charter schools is limited to the management of the appointment process for charter school trustees, and the distribution, collection, and maintenance of records related to some of the legal requirements for individual trustees. . . .

DESE recognizes the inherent challenge when a financial disclosure for the prior calendar year is received by a former trustee several months after they have left a board of trustees. Fifty percent of the twelve records identified in the report were related to this category of trustees, five of the six former trustees did not complete the required financial disclosure, which was requested several months after they left a board of trustees. To facilitate the timely completion of financial disclosure forms, DESE will consult with the State Ethics Commission regarding whether disclosures for selected calendar years requested when service on a board of trustees ends rather than the following year. We will also work with the State Ethics Commission to provide virtual trainings for board members and will consult with the Commission regarding enforcement mechanisms available under the Commonwealth's conflict of interest laws.

The BMMS generates and sends reminders to board members in advance of any due dates for the required forms. In addition, the BMMS sends notifications to board members if they miss a due

date and sends reminders thereafter. DESE also performs cyclical reviews at least twice annually of forms collected by the system to ensure completion of legal obligations by individual members of charter school boards of trustees. To clarify expectations and to provide even further guidance, the Department works closely with the designated system users at each school to provide additional direct support to boards of trustees. In addition to the BMMS reports to designated system users that indicate missing information and forms for trustees, DESE provides cyclical reminders to system users regarding missing forms. To supplement DESE's current oversight, DESE will provide an additional webinar training annually for all school users of the online system to facilitate oversight and the cooperation of individual trustees.

Auditor's Reply

In its response, DESE noted the challenge of obtaining conflict of interest material acknowledgment forms and financial disclosure forms from former trustees when the request was made after their departure from a board. We acknowledge that our audit identified some of these situations. However, the statutory requirement applies to an individual's service during the prior calendar year, and nothing in the law exempts former trustees from filing these forms once their term concludes. The failure to obtain these forms—regardless of a trustee's current status—reflects a noncompliance with the law and highlights the need for a more effective process to ensure obligations are met when trustees leave their positions.

We acknowledge DESE's stated commitment to work to address these issues and strongly encourage DESE to implement our recommendations regarding this matter. As part of our post-audit review process, we will follow up on this matter in approximately six months.

APPENDIX A

Massachusetts Comprehensive Assessment System

DESE administers the Massachusetts Comprehensive Assessment System (MCAS), a statewide standardized test that measures student performance as a prerequisite to graduation. In 2016, DESE entered into a five-year, full-service, \$150.8 million contract with Cognia, formerly Measured Progress. According to this contract, Cognia was to develop, administer, score, and report MCAS test results. This contract, and its eventual extensions, covered school years beginning in 2017 through June 30, 2024. The table below outlines the annual costs of DESE's initial contract and its subsequent extensions with Cognia, based on DESE records.

	Fiscal Year	Annual Cost
Initial Contract, Year 1	2017	\$ 37,712,218
Initial Contract, Year 2	2018	31,686,802
Initial Contract, Year 3	2019	30,826,049
Initial Contract, Year 4	2020	30,526,991
Initial Contract, Year 5	2021	30,691,261
Contract Extension, Year 6	2022	31,682,141
Contract Extension, Year 7	2023	30,851,233
Contract Extension, Year 8	2024	36,500,000
Total		<u>\$260,476,695*</u>

* While the initial contract's original award value was \$150.8 million, this number reflects the actual amount DESE spent throughout the years on Cognia's services.

DESE became eligible to begin the state's official bid solicitation process for a new contract related to MCAS administration starting in June 2023. Bids from potential contractors were due in August 2023. In April 2024, after the bid solicitation process was complete, DESE entered into a five-year, full-service, \$179.6 million contract with Cognia once again to develop, administer, score, and report MCAS test results. Aggregate and anonymous MCAS test results, which are available to the public via DESE's website, include built-in annual comparison displays and summary tables that present yearly percentage changes and multiyear trends in student achievement and growth metrics.

APPENDIX B

The letter below was provided by DESE along with its written response to our audit findings after our audit work concluded. In this letter, DESE reported on program improvements it has made since the conclusion of our audit. Because this information came to us after our audit, we have not been able to confirm these program improvements.



July 18, 2025

VIA ELECTRONIC MAIL
Diana Dizoglio
Office of the State Auditor
One Winter Street, 9th Floor
Boston, MA 02108

Re: Draft Audit of the Department of Elementary and Secondary Education
(For the period July 1, 2021 through June 30, 2023)

Dear State Auditor Dizoglio:

Thank you for the opportunity to respond to the Office of the State Auditor's (SAO) audit of the Department of Elementary and Secondary Education (the Department or DESE), covering the period from July 1, 2021 through June 30, 2023. The Department agrees on the importance of obtaining adequate information regarding licensed educators, addressing special education complaints in a timely manner, ensuring that districts implement special education corrective plans, and providing safe and supportive environments for LGBTQ students.

Since the audit period ended on June 30, 2023, the Department – under the leadership of Commissioner Jeff Riley, Acting Commissioner Russell Johnston, Interim Commissioner Patrick Tutwiler, and now with me in the role of commissioner – has made significant improvements on each of these fronts, as detailed in this response.

Those improvements include:

- DESE has swiftly undertaken all of the Auditor's recommendations related to investigating supported reports of abuse and neglect brought against individuals who may hold or have applied for Massachusetts educators' licenses, reviewed the reports from February 2020 through April 2023, and strengthened internal systems to see that all reports were and continue to be reviewed in a timely manner.
- In October 2023, the Department increased the capacity of its state complaint system staff to improve responsiveness to special education complaints. In recent years, the Department has dramatically reduced the number of complaints pending over 60 days. In the last 3 months, the size of the backlog has been reduced by almost 40% and the Department is committed to continuing that progress.
- Since the period of the audit, the Department has created a team dedicated to facilitating and verifying the timely implementation of corrective action plans.

Diane Dizoglio
July 18, 2025

- In April 2024, the Department resumed a biennial presentation to the Board of Elementary and Secondary Education on LGBTQ youth, and in October 2024, DESE resumed sending an annual message to school leaders regarding creating safe and supportive environments for LGBTQ students.

The Department is also committed to notifying districts that settlement agreements must be available in a manner consistent with the public records law and that charter school trustees comply with ethics and financial disclosure obligations.

The Department appreciates SAO's review and recommendations and would appreciate the opportunity to meet for a formal exit conference prior to your processing the report. The Department is committed to continuing the improvements described above and to addressing your recommendations.

Sincerely,



Pedro Martinez
Commissioner of Elementary and Secondary Education

CC: Rhoda Schneider, General Counsel, Department of Elementary and Secondary Education
Secretary Patrick A. Tutwiler, Secretary of Education
Abigail Fee, General Counsel, Executive Office of Education
Katherine Craven, Chair, Board of Elementary and Secondary Education