

THE OFFICE OF ATTORNEY GENERAL MARTHA COAKLEY

Guide to Civil Rights in Schools

The responsibility for keeping Massachusetts schools safe rests with staff, students, administrators, law enforcement, and other community leaders. Every student has the right to learn in an environment that is free from violence, harassment, and discrimination based on race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability.

The Attorney General's Office website, www.mass.gov/ago, contains more information about school safety and about civil rights. The AGO encourages students and school staff to learn more so that they can play a role in keeping schools free from discrimination and create a climate in schools that celebrates differences and applauds diversity.



COMMONWEALTH OF MASSACHUSETTS

One Ashburton Place
Boston, MA 02108
(617) 727-2200
www.mass.gov/ago

HATE CRIMES

Students have the right to attend school without being the victim of physical violence, threats of harm, intimidation, or damage to their personal property. A hate crime has occurred when a student is targeted for physical assault, threat of bodily harm, or intimidation, at least in part because he or she is a member of a different race, color, religion, ethnic background, national origin, gender, or sexual orientation from the offender, or because he or she has a disability.

Certain types of language or conduct may indicate that a hate crime has occurred. Some indicators that a crime was hate-motivated include:

- Use of racial, ethnic, religious, sexual, or anti-gay slurs;
- Use of symbols of hate, such as a swastika or a burning cross;
- Similar behavior by the wrongdoer towards other students from the same racial, ethnic, or religious group or against students of the same sexual orientation or gender; and
- The incident occurs while the victim was participating in an activity promoting a racial, religious, ethnic/national origin, disability, gender, or sexual orientation group, such as attending a meeting of the National Association for the Advancement of Colored People (NAACP), a students' gay rights alliance, or a disability rights demonstration.

Hate crimes most frequently occur in the following ways:

- A physical attack or a threat of bodily harm, on the basis of a student's race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability;
- Intimidating or threatening language based on a student's race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability; or
- Damage to a student's personal property or belongings because of the student's race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability.

The Massachusetts Civil Rights Act, M.G.L. c. 12, s. 11, permits a victim and the Attorney General to seek a civil rights injunction on behalf of any victim of bias-motivated violence, threats, or intimidation based on an individual's actual or perceived race, color, national origin, ethnicity, gender, sexual orientation, disability, age, or religion.

HARASSMENT

Harassment in school occurs when a student's or an adult's behavior or inappropriate language creates a hostile, offensive, or intimidating school environment. A single incident, depending on its severity, may constitute illegal harassment. A hostile, offensive, or intimidating school environment may be created by behaviors such as the following:

- Degrading, demeaning, insulting, or abusive verbal statements, or writings of a sexual or racial nature, or related to a student's race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability;
- Graffiti, slogans, or other visual displays (such as swastikas and burning crosses) which contain racial, ethnic, or religious slurs or insults based on the student's gender, sexual orientation, or disability;
- Treatment of a student in a more or less favorable way because the student submitted to or rejected sexual advances or requests for a social relationship; and
- Unwelcome sexual advances, including same-gender harassment.

DISCRIMINATION

Every student is entitled to equal educational opportunities. A student may not be subjected to discipline or more severe punishment for wrongdoing nor denied the same rights as other students because of his or her race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability, including in:

- Course registration
- Guidance counseling and course instruction
- Extracurricular activities and athletic programs

Students with disabilities are protected under federal and state law from discrimination. The laws regarding harassment and discrimination are complex. For more information, please consult applicable state and federal anti-discrimination laws, including, the Massachusetts Student Anti-Discrimination Act (M.G.L. c. 76, s. 5), Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and Title IX of the Education Amendments Act of 1972]

FOR VICTIMS

If a student has been physically attacked, threatened with physical harm, or discriminated against while in school or while participating in a school-related activity, because of race, color, religion, national origin, ethnic background, gender, sexual orientation, or disability, the local police should be notified in an emergency or if a student's personal safety is in danger. In all circumstances where a student is the subject of any incident of harassment or any incident involving intimidation, threat of violence or physical attack, a school official should be notified.

If the target's physical safety is not in danger, he or she may want to try to speak with the person he or she feels has harassed or discriminated against him or her -- for example, the teacher, coach, other student or administrator -- to request that the offensive conduct stop. This should only be done if the target feels safe and are comfortable doing so. If the target does not feel safe or comfortable doing this alone, he or she should ask a trusted person -- such as a parent, a good friend, a family member, the school nurse, a teacher, or guidance counselor -- to accompany him or her. Some suggestions for students:

- Talk about the situation with parents, guardians, or another trusted adult.
- If there is still a problem, make an appointment with the school principal to explain the situation and resulting feelings, i.e., how rights have been violated.
- If the principal feels that a target's rights are not being violated or if, for some reason, a meeting is not able to take place, a meeting may also be requested with the school superintendent.
- If a target still feels that the concerns are not being appropriately addressed, a formal complaint may be filed with the school superintendent and the school committee. The school committee must respond in writing within 30 days of filing a complaint.
- A target may also request an investigation of a complaint by contacting the school district's Office of Equity or the person designated to coordinate or handle harassment and discrimination complaints in the school district.

REPORTING

Schools must take appropriate action to protect students from physical harm and to stop hate-motivated harassment or intimidation and prevent it from happening again. The school may want to enlist the support of the following agencies:

Massachusetts Department of Education (DOE)

www.mass.gov/doe
(781) 338-3000

The state DOE's Problem Resolution System allows you, your parents, and others to file a complaint if you believe you have been harassed or discriminated against.

Massachusetts Office of the Attorney General Civil Rights Division

www.mass.gov/ago
(617) 727-2200

The Attorney General's Civil Rights Division reviews complaints of harassment, intimidation and discrimination in schools and determines appropriate legal action, including obtaining a restraining order.

Massachusetts Department of Social Services (DSS)

www.mass.gov/dss
1-800-KIDS-508 Child Abuse/Neglect Reporting Line
1-800-792-5200 Child at Risk Hotline

DSS investigates reports involving a student under 18 years old who suffers physical or emotional injury from abuse (including sexual abuse) or severe neglect (including malnutrition).

U.S. Department of Education Office for Civil Rights

www.ed.gov/ocr
(617) 289-0111

The Office for Civil Rights receives and investigates complaints of discrimination and harassment.

Massachusetts Commission Against Discrimination (MCAD)

www.mass.gov/mcad
(617) 994-6000

The MCAD investigates complaints about discrimination in any public school program or course of study. Filing must occur within six months of the alleged discriminatory educational practice or harassment incident.

U.S. Department of Justice Community Relations Service

www.usdoj.gov/crs
(617) 424-5715

CRS is a specialized federal conciliation service that assists school districts to manage and prevent racial and ethnic conflicts and disruptions in schools.



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Civil Rights Division
One Ashburton Place
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Attorney General Martha Coakley's

The laws and regulations addressing civil rights and discrimination are a complex balance between ensuring the safety of all individuals and honoring the freedom of expression by members of society. This guide provides information about the laws that protect students from hate-based crimes, as well as resources available for reporting bias-motivated harassment, discrimination or violence.