Addressing Hate and Bias in Schools:

Q&A

Schools are <u>required</u> to take steps to prevent and address hate incidents.

Hate-related bullying and harassment are prohibited in Massachusetts schools. Schools must investigate alleged incidents, respond effectively, and take affirmative steps to create a positive school climate where all students feel safe, supported and respected.

What Are Bullying And Harassment Prohibited Under The Law?

- Bullying includes repeated, targeted behavior that harms a student or disrupts a school environment.
- Harassment includes any conduct that creates or contributes to an intimidating or hostile environment for a student because of their race, color, religion, national origin, sex, gender identity or sexual orientation.
- Bullying and harassment can take many forms, including verbal statements, online or social media activity, graffiti, violence or threatening physical conduct.

When Must A School Investigate?

- When a school has notice of an alleged hate incident, it must investigate to determine whether a student has been bullied or harassed.
- A school is responsible for addressing potential bullying or harassment even if it isn't formally reported so long as the school is on notice. For example, misconduct may be reported to a teacher, witnessed by a paraprofessional, or apparent for other reasons.
- A school must also consider whether an incident involves criminal conduct serious enough to be reported to local law enforcement for investigation but should not involve law enforcement in traditional school discipline issues.

What Must Schools Do To Address A Hate Incident?

- If a school determines that bullying or harassment has occurred, it must take steps to:
    - Stop the problematic behavior and prevent it from recurring.
    - Take concrete steps to ensure the victim's safety.
    - And restore a sense of safety at school.
- Depending on the circumstances, a school may need to change policies or procedures or implement training or educational programs to effectively respond.
- Schools must take a balanced approach to discipline.
    - On the one hand, inadequate discipline may allow misconduct to continue or recur.
    - On the other hand, schools must ensure that discipline is lawful and appropriate.
    - In particular, schools should carefully consider alternative measures before suspending or expelling students from school. For example, under some circumstances, carefully implemented restorative practices may be a more effective way to stop misconduct than excluding a student from school.

Addressing Hate and Bias in Schools:

Q&A

What About Conduct That Occurs Off Of School Property?

- Schools are responsible for addressing incidents that occur at school or school-related events, including on school buses.
- Schools are also responsible for addressing "off-campus" bullying or harassment that has a serious carry-over effect on the impacted individual at school.

What About First Amendment Protections Of Student Speech?

- Students have the right to speak out, state their views, and wear expressive clothing, within certain limits, and schools must protect students' rights to express their views and opinions.
- Bullying and harassment, however, are not protected by the First Amendment because they generally involve conduct rather than speech, violate the rights of others, or significantly disrupt the school environment.

What Affirmative Steps Must Schools Take To Prevent Hate?

- State law requires schools to take affirmative steps to create a positive school climate where all students feel safe, supported and respected.
- Schools must implement bullying prevention curriculum for all students and rules, policies, and procedures to combat bullying and harassment. Schools must include specific steps to support students vulnerable to becoming a target of bullying or harassment due to bias or hate.