

MALDEN PUBLIC SCHOOLS

Harassment, Bullying, and Hazing Policy

2023-2024

Massachusetts Harassment Laws

Harassment is defined under Massachusetts statutes as “willfully and maliciously” engaging in behavior that alarms a person or would cause a reasonable person emotional distress. The acts can occur in person, over the telephone, or over the Internet via email or social media like Facebook, Instagram, Twitter, or Snapchat.

Is Harassment a Hate Crime?

Harassment could potentially be a hate crime, if you are harassing someone in a bias-motivated manner based on their race, gender, ethnicity, religion, sexual orientation, gender identity or disability.

Intent to violate a person’s Constitutional rights based on those biases is a violation of the Massachusetts Civil Rights Act, which is a **civil offense**. But if you “interfere with or oppress someone in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or the laws of the Commonwealth”, it is a crime punishable by up to a year in jail under **Chapter 365, Section 37** of the Massachusetts General Laws.

If convicted of criminal harassment, could face up to 2 ½ years in prison and fines reaching \$1,000. If this is the second or subsequent time you have faced this charge, your potential sentence is increased to 2 ½ to 10 years in prison.

Three types of Harassment Examples:

1. Verbal/Written
2. Physical
3. Visual

1. Verbal/Written

Verbal or written is probably the most obvious workplace and school harassment examples. Here are some instances where it can occur:

- Sending emails with offensive jokes or graphics about race and religion
- Repeatedly requesting dates or sexual favors in person or through text
- Asking about family history of illnesses or genetic disorders
- Making derogatory comments about someone’s disability or age
- Imitating someone’s foreign accent behind their back

2. Physical

Physical harassment might be a little harder to recognize because it can sometimes be very subtle.

- Lewd hand gestures or other gestures meant to convey curse words
- Unwanted touching of a person or their clothing
- Frequently following or standing too close to a person on purpose
- Making sexually suggestive facial or physical expressions
- Playing music with offensive or degrading language

Many times physical harassment does not have to be directed at the person to be harassment. So for example, if two Students are joking around and one makes an inappropriate hand gesture and someone else sees it, they might feel uncomfortable and even harassed.

3. Visual

Visual is probably the hardest form of harassment to spot because it is the most subjective and really requires putting oneself in the shoes of the other person.

- Wearing clothing with offensive or vulgar language
- Displaying posters or pictures of a sexual nature
- Showing other people sexually suggestive text messages or emails
- Watching pornographic or violent videos
- Drawing violent or derogatory images

Policy

- I. It is the policy of the Malden Public Schools to provide a learning and working environment for students, employees, and visitors that is free from sexual harassment, bullying, hazing, and intimidation. These terms are referenced herein as “harassment.” Such prohibited action includes but is not limited to harassment based on race, color, religion, national origin, age, gender, sexual orientation, disability, or for any other reason or condition stipulated under federal or state statutes.
- II. It is a violation of this policy for any administrator, teacher, other employee, or any student to engage in or condone harassment in school or to fail to report or otherwise take reasonable corrective measures when they become aware of an incident of harassment.
- III. This policy is not designed or intended to limit the school’s authority to take disciplinary action or take remedial action when such harassment occurs out of school but has a connection to schools and schooling, or is disruptive to an employee’s or student’s work or participation in school related activities.
- IV. Reports of bullying and/or harassment by any means, including but not limited to direct physical confrontation, electronic harassment, or other means—occurring in or out of school will be reviewed and, when a nexus to work or school exists, will result in appropriate discipline. Parents of students alleged to have engaged in cyber harassment will be invited to attend a meeting at which the activity, words, or images subject to the complaint will be reviewed. A student disciplined for cyberbullying will not be readmitted to the regular school program until his or her parent(s) attend such a meeting.
- V. It is the responsibility of every employee, student, and parent to recognize acts of harassment and take every action necessary to ensure that the applicable policies and procedures of this school district are implemented.
- VI. Any employee or student who believes that he or she has been subjected to harassment has the right to file a complaint and to receive prompt and appropriate handling of the complaint. Further, all reasonable efforts shall be made to maintain the confidentiality and protect the privacy of all parties; but proper enforcement of this policy may require disclosure of any or all information received.
- VII. The Building Principal or designee shall be responsible for assisting employees and students seeking guidance or support in addressing matters relating to any form of harassment.
- VIII. Procedures
 - A. Definitions – Sexual Harassment Prohibited

“Sexual Harassment” shall mean unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, electronically transmitted, or physical conduct of a sexual nature, including but not limited to unwelcome comments, touching, written notes, pictures and cartoons, or other inappropriate conduct, such as leering, whistling, brushing up against the body, commenting on sexual activity or body parts or other activity referred to by the Model MCAD policy prohibiting such behavior. Harassment has the effect of creating an intimidating, hostile, or offensive work or learning environment that takes place under any of the following

circumstances:

1. When submission to such conduct is made, explicitly or implicitly, a term or condition of employment, instruction, or participation in school activities or programs;
2. When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personal or academic decisions affecting the individual subjected to sexual advances;
3. When such conduct has the effect of unreasonably interfering with the individual's work, attendance at school or participation in academic or curricular activities, or
4. When such conduct has the effect of creating an intimidating, hostile, or offensive work or learning environment.

B. Definitions – Bullying Prohibited

Bullying may take a variety of forms. It is unacceptable in a school or work environment. As a result no student or employee shall be subjected to harassment, intimidation, bullying, or cyberbullying in the Malden Public Schools:

1. “Bullying” shall mean unwelcome written, electronic, verbal, or physical acts or gestures whereby a student or employee feels coerced, intimidated, harassed, or threatened and under the circumstances (1) may cause a reasonable person to suffer physical or emotional harm, (2) may cause damage to another student’s or employee’s property, or (3) may cause a disruptive or hostile school environment. The behavior must interfere with an employee’s ability to perform his or her duties, with a student’s academic performance or ability to learn, or with a student’s ability to participate in or benefit from services, activities, or privileges:
 - a) that are being offered through the school district; or
 - b) during any education program or activity; or
 - c) while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, and/or at school-sanctioned events.
2. “Cyberbullying” shall mean harassment through the use of technological tools and electronic communication including but not limited to digital images, data, websites, cellular phones, telephones, or computer software programs that are accessed through a computer, computer system, or computer network or any public education institution whereby a student or employee feels coerced, intimidated, harassed, or threatened and under the circumstances (1) may cause a reasonable person to suffer physical or emotional harm, (2) may cause damage to another student’s or employee’s property, or (3) may cause a disruptive or hostile school environment. The behavior must interfere with an employee’s ability to perform his or her duties, with a student’s academic performance or ability to learn, or with a student’s ability to participate in or benefit from services, activities, or privileges:
 - a) that are being offered through the school district; or
 - b) during any educational program or activity; or
 - c) while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, and/or at school-sanctioned events.
3. As used in this Section, “electronic communication” means any communication through an electronic device including a telephone, cellular phone, PDA (personal digital assistant), computer, or pager.
4. The terms “bullying” and “cyberbullying” shall not be interpreted to infringe upon a student or employee’s right to engage in legally protected speech or conduct.

C. Definitions – Hazing Prohibited

The term “hazing” shall mean any conduct or method of initiation, even if consented to, into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person.

1. Such conduct shall include, but is not limited to: whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug, or other substance or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.
2. Whoever knows that another person is the victim of hazing and is at the scene of such activity, shall, to the extent that such person can do so without danger or peril to himself or others, report such activity to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such behavior shall be subject to discipline.

D. Guidelines for Investigating Harassment Claims

In school systems, harassment may take many forms and cross many lines. The situation may be an instance of staff member to staff member, staff member to student, student to staff member, or student to student. Guidelines for dealing with any charge of harassment are as follows:

1. By law, harassment is defined by the victim’s perception in combination with objective standards or expectations. What one person may consider acceptable behavior may be viewed as harassment by another person. Therefore, in order to protect the rights of both parties, it is important that the victim make it clear to the harasser that the behavior is objectionable. The presumed victim may choose to refer the perceived harassment to a school official, counselor, or other responsible adult who then has an obligation to inform the building principal.
2. In all charges of harassment, the victim should describe in writing the specifics of the complaint to ensure that the subsequent investigation is focused on the relevant facts. Oral and anonymous complaints will be reviewed but are inherently difficult to investigate and may not be procedurally fair; as a result no disciplinary action shall be taken on anonymous complaints unless verified by clear and convincing evidence. All other complaints will be reviewed based on a preponderance of evidence standard. The most expedient means of addressing harassment claims is to complete the MPS Harassment and Inequity Reporting Form.
3. Any school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of harassment, bullying, or intimidation shall immediately report it to the administration; each school shall document any prohibited incident that is reported and confirmed, and report all incidents of discrimination, harassment, intimidation, bullying or cyberbullying and the resulting consequences, including discipline and referrals, to the Superintendent’s office as they occur.
4. A good faith report from a staff member renders the staff member immune from discipline for making a report and is considered to have been made in the course of the staff member’s employment for purposes of M.G.L. c. 258. As a result, the school district shall indemnify staff members from any cause of action arising out of a good faith report of harassment or the district’s subsequent actions or inaction in connection thereto.
5. If an instance of student to student harassment is reported to a staff member other than an administrator, the staff member must inform the Assistant Principal/House Principal, or the Building Principal.
6. If a situation involving a charge of staff member to student harassment is brought to the attention of any staff member, the staff member should notify the Building Principal or Assistant Superintendent immediately.
7. In a situation involving a charge of student to staff member harassment, the staff member should

notify the Building Principal or Assistant Superintendent.

8. In a situation involving a charge of staff member to staff member harassment the staff member should notify the Building Principal or the Assistant Superintendent.
9. Once a charge of harassment has been made, including charges of mental, emotional or physical harassment as well as threats to a person's safety or position in the school or work environment, the following course of action should be taken.
 - a) The Building Principal should investigate the charge through discussions with the individuals involved. In situations involving allegations against a staff member, he/she should be informed of his/her rights to have a third party present at the time of the discussion. In situations involving students the Principal should engage the appropriate classroom or special subject area teacher. Parents will be informed of the situation and invited to participate in resolution discussions. It is important that the situation be resolved as confidentially and as quickly as the circumstances permit.
 - b) If the harasser and the victim are willing to discuss the matter at resolution meeting in the presence of the Principal or designee or Assistant Superintendent, a supportive faculty member and/or parent should be included in the discussion. During this discussion, the offending behavior should be described by the victim and administration, a request for a change in behavior should be made, and a promise should be made that the described behavior will stop. If circumstances do not permit a face to face meeting the administration will present the victim's position. Follow-up verification procedures will be explained. Failure to comply after a resolution meeting will result in appropriate discipline.
10. If after a resolution meeting with the involved parties, the Building Principal determines that further disciplinary action must be taken, the following could occur:
 - a) In instances involving student to student or student to staff member harassment, the student may be subject to discipline including but not limited to counseling and suspension.
 - b) In instances involving staff member to student or staff member to staff member harassment, findings will be reported to the Superintendent of Schools for further action. Personnel action may also be initiated at this point, consistent with the applicable law and collective bargaining Agreement.
 - c) In all cases a referral to law enforcement will be considered by the Principal or Superintendent based on the circumstances.

11. Retaliation:

Retaliation in any form against any person who has made or filed a complaint relating to harassment is forbidden. If it occurs, it could be considered grounds for dismissal of staff personnel and/or removal from the educational setting for a student. A referral to law enforcement may be made.

12. Confidentiality:

Reports of harassment should be kept completely confidential, consistent with necessary investigation procedures, with the goal of protecting the victim and stopping the behavior.

For further information about these guidelines or help with sexual harassment problems or any other form of harassment, consult your school Principal or Adjustment Counselors

If the alleged harasser is responsible for conducting an investigation, the Superintendent or Committee shall designate an alternative the Title IX Coordinator to conduct the investigation

1. Title VII of the 1964 Civil Rights Act, Section 703
2. Title IX of the 1972 U.S. Civil Rights Act.
3. Chapter 151C, Massachusetts General Laws
4. M.G.L. Chapter 76 § 5
5. M.G.L. Chapter 269 § 17, 18, 19
6. M.G.L. Chapter 71, §§82, 84

SEE SOMETHING, SAY SOMETHING

How to Report Bullying, Bias, Discrimination, Harassment, or Sexual Abuse/Assault

Malden Public Schools is committed to providing safe learning environments for all students. Whether you have experienced, been a witness to, or have information about a bullying or harassment incident, or any situation involving conduct you feel may have been motivated by bias or discrimination, report the incident by contacting a school administrator using the link below.

Staff members and administrators will work to investigate and prevent further issues of discrimination, harassment or violence. For any incidents where additional support is needed, school social workers and guidance counselors are available at each school.

SAY SOMETHING

Anonymously report an incident by scanning the code below or visiting:
www.sandyhookpromise.org/say-something-tips/



DEFINITION OF TERMS



AGGRESSOR: A student or a member of a school staff who engages in bullying, cyberbullying, or retaliation towards a student. Aggressors can be students or staff members.



BULLYING: The repeated use by one or more aggressors of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target.



TARGET: A student against whom bullying, cyberbullying, or retaliation is directed.

#HATE

#BULLY

CYBERBULLYING: Bullying through the use of technology or any electronic devices such as telephones, cell phones, computers, and the Internet. This includes, but is not limited to, email, instant messages, text messages, and Internet postings.



HOSTILE ENVIRONMENT: A situation in which bullying causes the school environment to be permeated with intimidation, ridicule, or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.



STAFF MEMBER: Those individuals working within the school, including, but not limited to educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, or paraprofessionals.



RETALIATION: Any form of intimidation, reprisal, or harassment directed against a student who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying.



HARASSMENT: when the speech or actions are so severe, pervasive, or targeted at particular people that it hinders the student's ability to get an education, significantly harms their well-being, substantially interferes with their rights, or intimidates the student because of their identity.