



**LAWYERS' COMMITTEE FOR CIVIL RIGHTS  
UNDER LAW OF THE BOSTON BAR ASSOCIATION**

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**Testimony of Rahsaan D. Hall, Staff Attorney of the Lawyers' Committee  
for Civil Rights Under Law of the Boston Bar Association before the  
Massachusetts Commission to Review Statutes Relative to Implementation  
of the School Bullying Law**

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My name is Rahsaan Hall. I am a Staff Attorney at the Lawyers' Committee for Civil Rights and I am here to testify about the Lawyers' Committee's concerns regarding the School Bullying Law.

For more than forty years, the Lawyers' Committee has worked to challenge all forms of race and national origin discrimination in Massachusetts, representing countless victims of discrimination in individual lawsuits and class actions on issues including housing, employment, education, public accommodations, racial violence, and voting. Discrimination takes a terrible toll on individuals, regardless of whether the discrimination is intentional; the impact of discrimination is devastating and has no place in our society.

Similarly, bullying has no place in our society. The countless incidents of harassment, intimidation, violence and sometimes death have created a climate in the Commonwealth and in our nation that have led to the implementation of Anti Bullying legislation. The Lawyers' Committee applauds the deliberation and actions of the respective state legislators and the Governor of this Commonwealth to enact a School Bullying Law. We believe in the protection and support of all of the Commonwealth's children especially in school settings, and this law will help ensure that learning can and will take place.

However, the Lawyers' Committee for Civil Rights cannot turn a blind eye to the unintended impact that overzealous and unchecked enforcement of this anti bullying provisions will have. It is no secret that school exclusions in the Commonwealth, by way of suspensions and expulsions, have been on the rise. In the 2002 – 2003 school year there were 1,949 exclusions of students from schools for 10 days or more. In the 2008 – 2009 school year that number shot up to 3,375. There is well documented evidence that illustrates the correlation between repeated suspensions and school dropout rates.

These school exclusions disproportionately impact Black and Hispanic children as well as low income and special education students. A recent report from the Rennie Center for Education Research and Policy entitled *Act Out, Get Out?: Considering the Impact of School Discipline Practices in Massachusetts<sup>a</sup>*, indicated that although Black students only comprise 8% of the

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<sup>a</sup> Rennie Center for Education Research & Policy. (Spring 2010). *Act Out, Get Out? Considering the Impact of School Discipline Practices in Massachusetts*. Cambridge MA: Rennie Center for Education Research & Policy

student population, they account for 19% of the long term disciplinary removals. These statistics relate to suspensions that are more than 10 days for “unassigned offenses.”<sup>b</sup> Unassigned offenses are school infractions that do not involve illegal substances, violence or criminal activities. It is conceivable that school plans developed to prevent and address bullying will often times fall within the category of “unassigned offense.” To the extent the bullying activity can be categorized as “criminal” the statistics of disparate impact are no better. Although Black and Hispanic students only comprise 8% and 14% of the total student population respectively, they account for 16% and 23% of out of school suspensions for violent and or criminal offenses. Furthermore, there is no evidence that suggests Black and Hispanic students have higher rates of misbehavior.<sup>c</sup> These statistics require that policy makers, school officials and community leaders and members be hyper vigilant to ensure that historically disenfranchised communities do not become the victims of a well intentioned law.

The Rennie Center report states, “Emerging professional opinion, qualitative research findings, and empirical literature from social psychology suggests that the disproportionate discipline of students of color may be due to lack of teacher preparation in classroom management, lack of training in culturally competent practices, or racial stereotypes.”<sup>d</sup> This statement is evidenced by statistics that show that Black and Hispanic students are more likely to receive out-of-school suspension compared to their white counterparts. For incidents involving White students 63% resulted in out-of-school suspension and 37% resulted in in-school-suspensions versus the higher rates of out-of-school suspensions among Black and Hispanic students (74% and 68% respectively) and lower rates of in-school-suspension (26% and 31% respectively).<sup>e</sup>

General Law 71 § 37 O provides for the development of plans that will attempt to address, combat and prevent school bullying. The law makes provisions for the accountability of district leaders and school administrators in regards to educating faculty, staff, students and families on the issue of school bullying. There are mechanisms within the law, which if properly enforced and implemented, can help to ensure that the already overburdened populations of Black and Hispanic students are not adversely impacted by the implementation and adherence to these plans. For example subsection (d) requires institutions to adhere to and update the plans to address bullying in a process that includes community representatives in addition to other stakeholders. This is a perfect opportunity to promote transparency in the process used to determine who is disciplined and how they are disciplined.

Subsection (viii) of the second paragraph of subsection (d) requires plans to include a range of disciplinary actions that can be taken against perpetrators. We strongly urge educational institutions and districts to seriously consider the social psychological data that deals with disproportionate discipline along racial lines before developing a disciplinary plan. Additionally, the fourth paragraph of subsection (d) provides for the ongoing professional development to build the skills of staff members. Under careful consideration, reflection and implementation plans to address bullying should not further exacerbate the educational disparities overwhelmingly experienced by Black and Hispanic children in the Commonwealth.

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<sup>b</sup> *Id.*, p. 15.

<sup>c</sup> *Id.*, p. 5.

<sup>d</sup> *Id.*, p. 16.

<sup>e</sup> *Id.*