



FROM THE OFFICES OF
GOVERNOR MAURA T. HEALEY
ATTORNEY GENERAL ANDREA JOY CAMPBELL



To: Massachusetts Institutions of Higher Education and K-12 Schools

From: Office of the Attorney General, Executive Office of Education, Department of Higher Education, and Department of Elementary and Secondary Education

Date: September 23, 2025

In response to evolving court precedent and continuing attacks by the federal government on diversity, equity, inclusion, and accessibility policies and programming in schools, the Massachusetts Office of the Attorney General, Executive Office of Education, Department of Higher Education, and Department of Elementary and Secondary Education are reissuing this appended and updated Joint Guidance to clarify the legal landscape for the Commonwealth's Institutions of Higher Education and K-12 schools as they work to advance educational goals and access to educational opportunities.

This Joint Guidance clarifies current federal and state laws impacting the Commonwealth's Institutions of Higher Education and K-12 schools. We will continue to update this Joint Guidance in light of any new developments in federal or state law.

Educational institutions should continue to foster diversity, equity, inclusion, and accessibility among their student bodies. While recent communications from the federal government have correctly identified federal civil rights laws that apply to Institutions of Higher Education and K-12 schools, the communications misconstrue case law, misinterpret federal statutes and Supreme Court precedent, and wrongly imply that it might be unlawful for schools to consider the impact of policies, practices, and programming on diversity, equity, inclusion, and accessibility. To be clear, nothing in these communications or others from the federal government has changed existing law and well-established legal principles that encourage—and even require—schools to promote educational opportunity for students of all backgrounds.

The Trump Administration has incorrectly suggested that practices and programming that promote diversity, equity, inclusion, and accessibility harm students by preferencing or stigmatizing racial groups. On the contrary, such programs confer important educational and social benefits for *all* students. They foster learning environments that provide *all* students an equal opportunity to learn and better prepare students to work in our diverse country and participate in our multiracial democracy. They are essential to promoting fair treatment and eliminating stigmatization.



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Longstanding legal precedent has established that educational institutions may take steps to foster diversity across numerous dimensions, including geography, socioeconomic status, race, sex, sexual orientation, and gender identity, among others. The President cannot change this longstanding legal precedent by executive order,¹ and nonbinding letters and memos certainly cannot do so.² The attached guidance provides additional information on legally compliant ways that educational institutions can continue to meaningfully and successfully achieve the worthy goals of diverse and equitable student bodies consistent with state law, federal civil rights law, and the U.S. Constitution.

¹ U.S. Const. art. II, § 3 (the President “shall take Care that the Laws be faithfully executed”); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952) (Jackson, J., concurring).

² See, e.g., United States Attorney General’s “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination,” dated July 29, 2025, which purports to provide “non-binding suggestions to help entities comply with federal antidiscrimination laws and avoid legal pitfalls.” This Guidance makes clear that these suggestions “are not mandatory requirements but rather practical recommendations to minimize the risk of violations.”



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**EXECUTIVE OFFICE OF EDUCATION, DEPARTMENT OF HIGHER EDUCATION,
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, AND OFFICE OF THE
ATTORNEY GENERAL**

Legal Guidance Regarding Lawfully Promoting Access to Educational Opportunity

The Office of the Attorney General (AGO), Executive Office of Education (EOE), Department of Higher Education (DHE), and Department of Elementary and Secondary Education (DESE) are issuing this updated Joint Guidance to reaffirm our support for the Commonwealth's Institutions of Higher Education (IHEs) and K-12 schools furthering their work to promote access to educational opportunity.

This Joint Guidance also includes steps that IHEs and K-12 schools can take to create equitable opportunities and experiences for all students.

FREQUENTLY ASKED QUESTIONS

IHEs and K-12 schools can and should adopt numerous approaches as they work to advance their respective missions, break down barriers, and increase access for historically and currently underrepresented students. The following answers to Frequently Asked Questions (FAQs) are intended to provide guidance on steps that can be taken, consistent with state and federal law, to improve post-secondary access and success. The first few FAQs are primarily relevant to IHEs while the latter section is more focused on K-12.

The Impact of the *Students for Fair Admission, Inc. v. Presidents and Fellows of Harvard College* (SFFA) Decision:

What was the holding of SFFA?

On June 29, 2023, the Supreme Court issued its decision in *SFFA*, holding that the race-conscious admissions systems utilized at Harvard and the University of North Carolina (UNC) violated Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment, respectively.³

³ *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).



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In *SFFA*, the Court asserted three bases for its determination that Harvard's and UNC's admissions programs violated the Equal Protection Clause and therefore also Title VI in relying on individual students' race as a factor in the admissions process. First, the programs were not operated in a way that could be "subjected to meaningful judicial review" under the applicable strict constitutional scrutiny, because their stated goals were "not sufficiently coherent" to be measurable,⁴ and the programs did not "articulate a meaningful connection between the means they employ and the goals they pursue" due to the use of "imprecise" and "opaque" racial categories.⁵ Second, the programs used race in a "negative" manner that "operate[d] as a stereotype."⁶ And third, the programs lacked a "logical end point."⁷

Accordingly, the Court found Harvard's and UNC's programs violated the Equal Protection Clause and Title VI.

How does the SFFA decision extend to other contexts?

SFFA is specific to higher education admissions practices that use an applicant's race as a "plus" factor in evaluating an applicant for admission. The case has no direct application to programs outside of higher education admissions or to admissions policies that do not use race as a factor for admissions in the same way.

Schools can and should assume that *SFFA*'s reasoning may extend to a school's provision of a concrete benefit or opportunity to a *particular individual* based on that individual's race – and that any such preference would have to meet the exacting standard of strict scrutiny. But it is not unlawful for a school generally to take race into account in its operations and programming. And a school may lawfully consider the ways in which a particular student's qualifications are related to their race, as the Supreme Court itself pointed out in *SFFA*.⁸

⁴ *Id.* at 214.

⁵ *Id.* at 215-16.

⁶ *Id.* at 218.

⁷ *Id.* at 221.

⁸ The *SFFA* decision affirmatively does not "prohibit[] universities from considering an applicant's discussion of how race affected [their] life, be it through discrimination, inspiration, or otherwise." *Id.* at 230. For example, the opinion notes that a school might provide "[a] benefit to a student who overcame racial discrimination . . . tied to *that student's* courage and determination." *Id.* at 231 (emphasis in original).



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Institutional Mission:

Can IHEs still include diversity as part of their missions? And may IHEs still work to support efforts to achieve equitable outcomes in persistence and graduation of their students?

IHEs may continue to articulate missions and goals related to student body diversity and equitable outcomes for students and may use all legally permissible methods to achieve that diversity and equity, some of which are described below.

Admissions:

How can IHEs consider race in admissions?

The Supreme Court in *SFFA* limited the ability of IHEs to consider an applicant's race in and of itself as a factor in deciding whether to admit the applicant.

But an institution may choose to advance its educational goals by using a holistic review in admissions considering factors such as cultural competencies, income level, first generation to attend college, neighborhood or community circumstances, disadvantages overcome, and the impact of an applicant's particular experiences on their academic achievement and on the perspectives they would bring to the school environment. In fact, the Supreme Court has encouraged "draw[ing] on the most promising aspects of . . . race-neutral alternatives" to achieve "the diversity the [institution] seeks." *Grutter v. Bollinger*, 539 U.S. 306, 339, 342 (2003).⁹ And binding precedent in the First Circuit Court of Appeals recently reaffirmed that such race-neutral admissions policies are lawful and consistent with the Supreme Court's decision in *SFFA*. Specifically, the First Circuit upheld a temporary admissions plan for three selective high schools in Boston that was intended to and did result in an increase in racial, socioeconomic, and geographic diversity.¹⁰ The temporary plan shifted admissions criteria from standardized test scores to GPAs and student zip codes. The First Circuit held that "[t]here is nothing

⁹ *SFFA* did not overrule *Grutter*, nor did it call into question that decision's approval of race-neutral measures to increase student body diversity.

¹⁰ *Bos. Parent Coal. for Acad. Excellence Corp. v. Sch. Comm. for City of Bos.*, 89 F.4th 46 (1st Cir. 2023), *cert. denied*, 145 S. Ct. 15 (2024).



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constitutionally impermissible about a school district including racial diversity as a consideration and goal in the enactment of a facially neutral plan.”¹¹

The Court in *SFFA* also made clear that “nothing in [its] opinion should be construed as prohibiting universities from considering an applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise.”¹² Institutions that consider life experiences more generally may therefore also consider experiences linked to prospective students’ race and how those experiences shaped their lives and the unique contributions they can make to campus.

Institutions remain free to consider any quality or characteristic of a student that bears on the institution’s admissions decision, provided that any benefit is tied to “that student’s” characteristics, and that the student is “treated based on his or her experiences as an individual,” and “not on the basis of race.”¹³

What changes should IHEs make to their admissions practices in light of the SFFA decision?

Those IHEs that previously considered race in the manner that the Court addressed in the *SFFA* decision must re-evaluate those practices to ensure compliance with the law. For instance, using an individual student’s race as itself a “plus” or a “tip” in holistic admissions decisions was directly addressed by the Court, and any such practice must be re-evaluated.

Institutions may also choose to audit their existing admissions processes, practices, and criteria to identify potential barriers to access for historically and currently underrepresented students and use the Court’s decision as an opportunity to retool operations in ways that better align with their institutional mission. More specifically, institutions can reconsider and recalibrate criteria that have generally created barriers for certain students, such as application fees, early

¹¹ *Id.* at 62. Other federal courts have similarly recently reaffirmed the lawfulness of race-neutral admissions policies and practices. See, e.g., *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, 68 F.4th 864 (4th Cir. 2023), *cert. denied*, 218 L. Ed. 2d 71 (Feb. 20, 2024); *Sargent v. Sch. Dist. of Philadelphia*, No. CV 22-1509, 2024 WL 4476555 (E.D. Pa. Oct. 11, 2024).

¹² *Students for Fair Admissions*, 600 U.S. at 217.

¹³ *Id.* at 230-31.



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admissions plans, legacy preferences, testing requirements, athletic preferences, curricular requirements, and grade thresholds.

Recruitment Practices and Programs:

How can IHEs target outreach of potential applicants?

As part of a comprehensive approach to conducting outreach to potential applicants, IHEs can make special efforts to reach particular students. Institutions do not have to ignore race when identifying prospective students for outreach and recruitment programs, provided such programs do not give the targeted students preference on the basis of racial status and that all students have the same opportunity to apply and compete for admission.

For instance, campuses may work with community organizations serving underrepresented groups to share information about the application process and attract applications from that population. Similarly, as long as programs are open to all participants, regardless of their race, institutions may offer outreach, informational programs, and other programs, including scholarship opportunities,¹⁴ that may, because of their content, be of particular interest to members of a particular group. Partnering with affinity groups that have relationships with community-based organizations is one approach often undertaken by institutions that seek to broaden their applicant base.

Additionally, IHEs may continue to conduct outreach to potential applicants based on a wide range of characteristics, such as academic interests, geographic residency, financial means and socioeconomic status, first generation to go to college, family background, and parental education level.

IHEs may also engage in expanded outreach by increasing the number and types of high schools, organizations, and regions admissions officers visit during the recruiting season.

¹⁴ Schools should consult with legal counsel regarding scholarship programs that restrict eligibility based on protected characteristics, which may implicate legal issues beyond the scope of this guidance.



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How can IHEs support potential transfer students?

IHEs may continue to make every effort to recruit and support transfer students, including learners from the Massachusetts community colleges. To that end, institutions should deepen relationships with the full range of associate-degree awarding institutions in the Commonwealth and create meaningful experiences for transfer students. Institutions should continue to work to implement all elements of state policy and programs like [MassTransfer](#) and/or consider joining the [Massachusetts Transfer Guarantee](#). Colleges and universities can evaluate whether they have developed clearly articulated, well-publicized pathways from two-year institutions to four-year institutions for transfer students, like the DHE-developed [Associate to Baccalaureate \(A2B\) Mapped Pathways](#).

Overall, transfer policies and practices should be examined to consider ways in which they might become more student-centered and broaden access. Institutions may consider providing additional financial resources and coordinating wraparound supports for transfer students. For example, programs that allow dual admission to both a community college and a university promote collaboration across institutions, with learners gaining greater access to services such as academic advising, career counseling, and cocurricular and social opportunities to better facilitate the transition between institutions and create a greater sense of belonging.

How can IHEs build relationships with middle and high schools?

IHEs may engage in many policy and practice reforms to develop robust relationships with middle schools and high schools across the Commonwealth with particular emphasis on those schools with historically low college-going rates.

Practices may include:

- Partnering with particular schools and/or community-based organizations to offer mentoring or other programming throughout the school year to enhance students' academic exposure;
- Hosting or sponsoring local, state, and federally funded college access programming;



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- Hosting Admissions Days at area high schools, inviting seniors and partnering with admissions counselors and financial aid advisors to complete admissions applications;
- Reaching out to area high schools and designating a high school staff person to recruit students from inside the high school as a “high school liaison” who meets with students individually, in small groups, and in large settings and assists students in filling out applications, visiting the institution of higher education, and looking at career options;
- Offering tours on campus for local high school students that include information sessions where students can complete applications on the spot; and
- Hosting “academic preview days” for local high school students focused on individual programs, where students are invited to visit campus for the day, including campus tours, lunch with staff and faculty, and a current student panel focused on the particular program.

Data and Programming:

What kind of data can IHEs collect and how can they use that data?

IHEs may continue to collect data based on race and ethnicity, and other aspects of one’s identity, including legally protected categories. And they can use that data to assess the impact that policies and programming may have on their student body. For example, IHEs might use disaggregated data to determine whether strategies to improve graduation rates are successfully improving outcomes for students from different backgrounds. The Supreme Court in its *SFFA* decision addressed the use of individual students’ race as a plus factor in admissions decisions—not collection of data on race for broader informational, research, and evaluation purposes. Accordingly, while such data collection may continue, institutions may not provide an advantage to an individual applicant specifically on the basis of the data collected about their race, including, e.g., based on how their race compares to the race of other students admitted thus far during a rolling admissions process.¹⁵

¹⁵ *Id.* at 230.



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Can schools continue programming to provide extra support to students based on objective risk factors?

Yes. Schools can continue to target services for students with particular risk factors that suggest the need for extra support. This is not unlawful even if students from certain protected classes are overrepresented in the group provided support, so long as particular advantages or benefits are not provided on the basis of a student's protected characteristic.

Curriculum, Student Groups, and Spaces:

Do institutions need to cancel classes or groups on campus that focus on particular identities?

No. Course offerings that address race, sex, sexual orientation, gender identity, disability, religion, or related topics are not unlawful and cannot be prohibited by the federal government. Similarly, nothing prevents institutions from allowing and sponsoring student affinity groups that are open to all students while also allowing students of particular backgrounds or common experiences to feel valued and heard.

Do affinity groups or spaces create an inherently hostile environment?

No. Affinity groups and spaces that focus on common experiences of particular groups do not inherently create a hostile environment. Any such groups and spaces should be open and welcoming of students from any background.

How can institutions promote safe, supportive, and inclusive campus spaces?

Institutions should continue to take affirmative steps to create and maintain campus spaces where students from all backgrounds feel safe, supported, and respected. Campus leaders should review their current policies and practices for compliance with all applicable anti-discrimination and civil rights laws and implement programs and policies that incorporate best practices and meet the needs of their campus communities.



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Guidance for K-12 Schools:

What was the holding of the Mahmoud decision?

In June 2025, the U.S. Supreme Court issued a decision in *Mahmoud v. Taylor*, a case addressing whether a school district could prevent parents of elementary school students from opting out of LGBTQ-inclusive books in the curriculum. The Supreme Court ruled that parents cannot be prevented from opting their children out of curriculum that “substantially interferes with the religious development of [their] children.”¹⁶ The Supreme Court noted that the determination of whether a particular policy or curriculum substantially interferes with a child’s religious development depends on the particular facts and circumstances, and that relevant factors may include the nature of the specific religious beliefs and practices asserted, the age of the child, and the context of the exposure.¹⁷

Can K-12 schools still use age-appropriate curriculum that is inclusive of race, gender, sexual orientation, gender identity, disability, religion, or other related topics?

Yes. K-12 schools should continue to use an inclusive, age-appropriate curriculum, which can include topics like race, gender, sexual orientation, gender identity, disability, and religion. There are significant, well-established benefits to representing students’ identities in the curriculum, and public schools should not interpret the *Mahmoud* decision as requiring or permitting them to erase particular groups from the curriculum. Massachusetts state laws and regulations continue to prohibit discrimination against any particular group in instruction or curriculum.¹⁸

When are schools required to provide religious accommodations for students?

Students and their families have a right to request accommodations and modifications to school policies, practices, and programs that impose a substantial burden on religious exercise.¹⁹ Schools should have clear policies and procedures

¹⁶ *Mahmoud v. Taylor*, 145 S. Ct. 2332, 2353, 2361-64 (2025).

¹⁷ See *id.* at 2353.

¹⁸ The Access to Equal Educational Opportunity regulations require public schools, through their curricula, to encourage respect for the human and civil rights of all individuals regardless of race, color, sex, gender identity, religion, national origin, or sexual orientation. 603 CMR 26.05; see also M.G.L. c. 76, § 5

¹⁹ Public schools have both statutory and constitutional obligations to provide religious accommodations in appropriate circumstances. See G.L. c. 76, § 5 (providing comprehensive protections against discrimination or exclusion based on religion in public schools); *Curtis v. Sch. Comm. of Falmouth*, 420 Mass. 749, 759-61 (1995) (discussing constitutional requirements).



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in place to handle religious accommodations should they arise. It may be helpful to offer a particular form or process to facilitate student or parent requests for religious accommodation. Any such form or process should be general in nature—rather than specific to particular curricula, policies, procedures, or programs—as schools should not presuppose what might give rise to a request for accommodation.

Schools are generally not required to provide accommodations if doing so would improperly interfere with legitimate and important institutional and educational interests.²⁰ This may include accommodations that will cause unreasonable disruptions to the educational environment; will threaten student safety; or that are unreasonably expensive or practically infeasible.²¹ Each school district should consider its unique circumstances and consult legal counsel when evaluating religious accommodation requests.

Examples of appropriate religious accommodations may include:

1. Providing alternative assignments;
2. Waiving certain dress code or school uniform requirements that will allow students to wear religious garments; and
3. Adjusting students' schedules for religious holidays.

Other resources available include:

- [DESE's Special Advisory on Supporting All Students, Including LGBTQ Students](#)
- [DESE, Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment.](#)

²⁰ When a school receives notice that an accommodation may be necessary, it should consider “the nature of the [religious] burden, the significance of the governmental interest at stake, and the degree to which that interest would be impaired by an accommodation of the religious practice.” *Curtis*, 420 Mass. at 760.

²¹ See, e.g., *Mahmoud*, 145 S. Ct. at 2362 (recognizing that “schools have a ‘compelling interest in having an undisrupted school session conducive to the students’ learning’” (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 119 (1972))).



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How can K-12 schools continue to prepare all students for college or careers?

It is imperative that the Commonwealth's K-12 schools maintain and strengthen efforts to prepare all students for college and careers – including students from historically and currently underrepresented backgrounds, who are disproportionately students of color. Schools must continue to provide all students with access to the course work, instruction, enrichment opportunities, counseling, and other preparatory programs necessary to prepare them for college and careers. In some circumstances, this may mean taking targeted action to support students who exhibit particular risk factors so that they are aware of, have access to, and participate in these courses and programs.

Schools should consider dedicating particular attention to the following types of programs and services:

- My Career and Academic Plan (MyCap), a student-centered holistic, multi-year planning tool designed to provide middle and high school students with ongoing opportunities to plan for their academic, personal/social and career success in high school and beyond;
- Making available online college and career planning resources, that can help students and their families successfully navigate the college application and selection process;
- Comprehensive counseling and coursework that prepares students for post-secondary education;
- Providing students with a rigorous high school course of study such as MassCore which aligns with college admissions standards;
- Offering Early College, which gives students the opportunity to take college courses and earn credits at no cost before they graduate high school;
- Offering the Innovation Career Pathways program, which provides workforce learning options to high school students, including learning opportunities in Advanced Manufacturing, Information Technology, Environmental and Life Sciences, Health Care and Social Assistance, Business and Finance, and Clean Energy; and
- Expanding access to Advanced Placement (AP), dual enrollment, and other advanced course work during high school; specifically for the expansion of AP courses taking advantage of DESE's commitment to provide AP exam fee subsidies for low-income public school students again this year.



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How can K-12 schools promote a safe, supportive, and inclusive school environment?

Schools should continue to take affirmative steps to create and maintain a positive school climate where all students feel safe, supported, respected, and ready to learn. School leaders should review their current policies and practices for compliance with all applicable anti-discrimination, anti-bullying, and civil rights laws and implement programs and policies that incorporate best practices and meet the needs of their local community. Schools' responsibilities under these laws include the following:

- Through school curricula, encourage respect for the human and civil rights of all individuals regardless of race, color, sex, gender identity, religion, national origin, immigration or citizenship status, disability, or sexual orientation;²²
- Comply with the state's strong anti-discrimination laws, which prohibit discrimination in public schools based on race, color, sex, gender identity, religion, national origin, immigration or citizenship status, disability, or sexual orientation.²³ Among other protections, these laws protect the right to use facilities and participate in athletic programs consistent with one's gender identity.²⁴
- Provide students at all grade levels with needed skills, knowledge, and strategies through evidence-based bullying prevention curriculum;²⁵
- Develop and implement plans to support and protect students who are vulnerable to becoming targets of bullying or harassment because of their race, color, sex, gender identity, religion, national origin, immigration or citizenship status, disability, or sexual orientation;²⁶ Prohibit students from engaging in bullying or harassment and prescribe disciplinary measures that may be imposed for violations;²⁷
- Implement comprehensive policies and procedures for reporting, investigating, and responding to bullying and harassment;²⁸ and

²² See 603 CMR 26.05; see also M.G.L. c. 76, § 5.

²³ See, e.g., M.G.L. c. 76, § 5 (Student Anti-Discrimination Act).

²⁴ See, e.g., M.G.L. c. 76, § 5 (Student Anti-Discrimination Act); DESE, Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment, <https://www.doe.mass.edu/sfs/lgbtq/genderidentity.html> (more detailed guidance on how to prevent discrimination based on gender identity).

²⁵ The Massachusetts Anti-Bullying Law requires schools to take steps to prevent bias-related bullying and harassment by students and staff and to respond effectively when it occurs. M.G.L. c. 71, § 37O.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*



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- Train administrators, teachers, and school staff to successfully implement anti-bullying and anti-harassment policies and procedures, including by providing ongoing professional development opportunities to assist them in preventing and addressing bullying and harassment.²⁹

The Joint 2024 Guidance from AGO, EOE, and DESE on Schools' Legal Obligations to Prevent and Address Hate and Bias Incidents includes best practices to help administrators, teachers, and school staff meet their obligations to prevent and address bias, hate, and prejudice in K-12 schools. Additional information and resources for creating and sustaining safe and supportive learning environments are available on DESE's Office of Student and Family Support webpages.

If you have further questions, please contact our offices using this email address:
accessandadmissions@mass.gov.

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²⁹ *Id.*