

DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION



There are many forms of discrimination. At the Massachusetts Commission Against Discrimination (MCAD), discrimination is the unfair treatment of a person or group based on the certain characteristics of who they are—referred to as their membership in a protected class:

PROTECTED CLASSES

- Disability
- Sex
- Gender Identity
- Gender Expression
- Sexual Orientation
- Religion
- Ancestry
- National Origin
- Color
- Race (including natural & protective hairstyles)

COMMON FORMS OF DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

Disparate Treatment

Unequal treatment based on membership in a protected class.
Example: An attendant at a museum asks a nursing mother to cover up or move to the restroom while breastfeeding, rather than allowing her to remain seated at the public bench.

Disparate Impact

A rule or policy that appears neutral but impacts groups differently.
Example: A hotel chain institutes a policy requiring all guests to present a government-issued photo ID at check-in, disproportionately affecting immigrants, unhoused individuals, and transgender guests.

Harassment

Words, conduct, or actions that denigrate, show hostility to, or exhibit aversion towards a person or group based on their membership in a protected class. Tolerating behavior in exchange for access to a service. Conduct is unwelcome, severe, and pervasive.

Types:

- **Protected Class Harassment:** inappropriate touching of a non-sexual nature, stereotyping, knowingly misgendering.
- **Sexual Harassment:** sexual advances, requests for sexual favors, sexual jokes, displaying sexually suggestive pictures or objects.

Denial of Access

Denial of entry or access to a facility without a legitimate business reason
Example: A restaurant refuses to seat a guest who arrives with a service dog, saying animals aren't allowed inside.

Retaliation

An adverse action as a result of engaging in a protected activity.
Example: A gym member complains to management about being harassed by staff due to their gender identity. Shortly after, the gym revokes their membership without a clear reason.

Failure to Accommodate

Not making reasonable changes or exceptions to policies or practices to allow equal access for individuals with protected needs—such as disabilities or religious practices—when it would not cause undue hardship.
Example: Not allowing someone to ride a roller coaster who wears a hijab for religious reasons due to a “no head coverings” policy at the amusement park.

RESPONSIBILITIES

Employees & Supervisors of Public Establishments

- Monitor your own behavior and counsel anyone who behaves inappropriately
- Report potential policy violation or accommodations need immediately
- Initiate the interactive process—dialogue exploring potential reasonable accommodations to address a guest's particular limitations—in response to a request for reasonable accommodation or an obvious need for a reasonable accommodation
- Immediately address any concerns raised
- Get assistance as needed

Web Resources

Massachusetts Commission Against Discrimination (MCAD): mass.gov/MCAD
Massachusetts Attorney General (AGO): mass.gov/AGO

