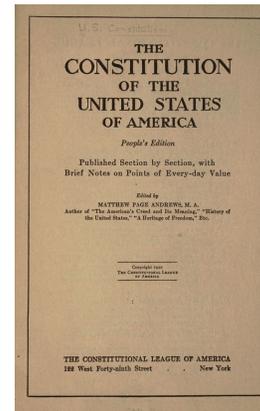


Know Your Rights: Discrimination in Education

For Muslim, Arab, and South Asian (MASA) families, their children experience barriers to receiving a quality education.

These might include **harassment, intimidation**, and bullying, not speaking fluent English, absence of translations of official forms in Arabic, Urdu, and other languages, and ensuring their children are not treated differently by their teachers because of their race, ethnicity or religion.

Fortunately, you have rights under federal law and New Jersey law that guarantee your children's access to a quality education in schools.



The right to a free public education

All children in the United States have the right to receive a free education in public school.

Under the US Constitution, all children must have equal educational opportunities, regardless of their race, ethnic background, religion, sex, how much money their parents make, or whether they're a citizen or non-citizen. Even if children or their parents are undocumented, the children still have a right to go to public school. **The law protects ALL children.**

New Jersey's Constitution also requires the Legislature to provide free public schools to children from five to 18 years old. So federal and state law work together to protect your family's rights.



What is discrimination?

Discrimination is treating you differently because of who you are, such as your race, religion, sex, or nationality. Here are examples of actions that are against the law.

- A teacher refuses to treat your child like other students because of the color of her skin
- A school administrator treats parents unfairly because they are from the Middle East, South Asia, or Africa or because they are Muslim
- School officials tell your child that they cannot wear a hijab or kufi in public school. That is illegal discrimination, even if there is a dress code or uniform requirement.

All of these actions are illegal.

The **New Jersey Law Against Discrimination** forbids schools from discriminating between students because of their race, creed, sex, handicap, or national origin (the country they come from).

What are the laws that govern education and discrimination?

Schools may not intentionally segregate, or separate, students based on their race, thanks to a U.S. Supreme Court decision called **Brown v. Board of Education**. In New Jersey, school officials also have to try to create **racial balance** within each school and each class.

Congress also passed **Title VI of the Civil Rights Act of 1964**, making it illegal to discriminate or segregate based on race or national origin. The Supreme Court has also ruled that **schools may not exclude the children of undocumented immigrants** from public schools. Schools may not question you or your children about your citizenship.

In New Jersey, the **Law Against Discrimination (LAD)** makes it illegal for all schools, except for religious schools, to discriminate against students based on race, color, national origin, sex, and gender. Discrimination can take the form of **harassment, intimidation, and bullying (HIB)** that targets a student because of any of these things.



Bullying affects Muslim, Arab, and South Asian students

According to a 2019 study, Muslim students in public schools face twice the rates of bullying as other students.

Students mistaken as Muslim, like Sikh students who wear turbans, are bullied at even higher rates.

There is also an unwelcome climate for Muslim, Arab, and South Asian students in schools.



The law protects your children against harassment, intimidation, and bullying (HIB)

The New Jersey Legislature wrote what some people call the strongest anti-bullying law in the country, the Anti-Bullying Bill of Rights Act, or “ABBRA.”

ABBRA defines harassment, intimidation and bullying (HIB) as:

- Something that someone should know would physically or emotionally harm a student or her property, or place her in fear of this;
- Insults or demeans a student or group; or
- Creates a hostile educational environment for the student by interfering with her education or causing physical or emotional harm.



According to ABBRA, HIB can happen through a gesture or a physical act. It can be communicated verbally, in writing, or electronically through telephone, cell phone, email, or social networks. It can happen once or multiple times.

Anti-bullying laws and bias-based HIB

To be governed by the ABBRA, the harassment, intimidation or bullying must happen because of an immutable characteristic including race, color, religion, sex, national origin, or disability. This is called “bias-based HIB.” ABBRA also governs HIB that happens for any “other distinguishing characteristic” such as obesity, hair color, or head lice.

The LAD requires all schools (except religious schools) to take action to prevent and resolve HIB that targets a student because of things like her race, religion, or nationality. It **does not cover** “other distinguishing characteristics” such as obesity or hair color.



Bullying can violate your child's civil rights

ABBRA prohibits HIB in school, on school buses, at school-sanctioned events, and off school grounds in some circumstances. This law also provides procedures to investigate and report HIB, requires school officials to provide consequences in cases of HIB, and provides a way for parents and students to appeal decisions by the school.

Schools are responsible for addressing bias-based HIB

The parent or student should report HIB as soon as possible, and give the school a chance to address the situation. Each school district must establish its HIB reporting procedure.

If the school does not take action within a reasonable amount of time, the student or parent can file a formal complaint with the New Jersey Division on Civil Rights (DCR), which enforces the LAD.

The parent can also sue in Superior Court.

NJ Division on CIVIL RIGHTS

For instructions on filing a complaint with the DCR, go to:
<https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home/division-on-civil-rights-file-a-complaint/>

RUTGERS
Center for Security, Race
and Rights

You and your children have rights to language access



Bilingual and ESL programs

New Jersey requires school districts to offer **bilingual education programs** if there are at least 20 students who share a native language and have limited English-speaking ability.

If there are between 10 to 19 students who need it, a district must create an “**English as a Second Language**” (ESL) program.

Other school districts must provide **English language services** for any student who has limited English-speaking ability.

Parents have the right to refuse bilingual programs or English language services for their child.

Where can I find more information?

The Center for Security, Race and Rights has a guide to education rights, as well as additional resources, at csrr.rutgers.edu

The law provides for accessing educational resources in different languages.

School districts must provide non-English speaking students with **English language instruction**. School districts that receive federal funding must provide English learning classes for students who do not speak English.



Communications with parents

Under federal law, school districts must determine whether parents have limited English skills and how to communicate with the parents. The **schools must provide language assistance** either with staff or by providing outside resources.

Schools must communicate with limited English proficient parents in a language they can understand, and **may not ask children to translate or interpret for the parents**.

