

SENATE No. 1685

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act ensuring uniformity in education discrimination complaint procedures.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Jose F. Tosado</i>	<i>9th Hampden</i>	<i>1/30/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>1/31/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2017</i>

SENATE No. 1685

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 1685) of Sonia Chang-Diaz, Jose F. Tosado, Paul R. Heroux and James B. Eldridge for legislation to ensure uniformity in education discrimination complaint procedures. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 960 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act ensuring uniformity in education discrimination complaint procedures.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3 of Chapter 151C of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking lines 1-67, inclusive, and inserting in its place the
3 following:

4 (a) Any person seeking admission as a student to any educational institution, or enrolled
5 as a student in a vocational training institution, who claims to be aggrieved by an alleged unfair
6 educational practice, hereinafter referred to as the complainant, may, independently, or through a
7 parent or guardian, make, sign and file with the commission a verified complaint which shall set
8 forth the particulars thereof and contain such other information as may be required by the
9 commission. The attorney general may, in like manner, make, sign and file such complaint. The
10 commission shall thereupon make an investigation in connection therewith; and after such

11 investigation, if the commission shall determine that probable cause exists for crediting the
12 allegations of the complaint, it shall attempt by informal methods of persuasion, conciliation or
13 mediation to induce the elimination of such unfair educational practice.

14 (b) Where the commission has reason to believe that an applicant or applicants for
15 admission to any educational institution, or enrolled student or students in a vocational training
16 institution have been discriminated against, except that preferential selection by religious or
17 denominational institutions of students on the grounds of religious or denominational affiliations
18 shall not be considered an act of discrimination, the commission may on its own motion make an
19 investigation.

20 (c) The commission shall not disclose what takes place during such informal efforts at
21 persuasion, conciliation or mediation, and there shall not be offered in evidence in any
22 proceeding the facts adduced in such informal efforts.

23 (d) A complaint pursuant to this section must be filed with the commission within 300
24 days after the alleged unfair educational practice was committed.

25 (e) If such informal methods fail to induce the elimination of the alleged unfair
26 educational practice, the commission may issue and cause to be served upon such institution,
27 hereinafter called the respondent, a certification of the complaint setting forth the alleged unfair
28 educational practice charged for a hearing before the commission, at a place and time to be
29 determined. The commission through the chairman may appoint a single commissioner or
30 hearing officer to hold public hearings.

31 (f) The respondent shall have the right to answer the original and any amended
32 complaint, and to appear at such hearing by counsel, present evidence and examine and cross-

33 examine witnesses. The case in support of the complaint shall be presented before the
34 commission by one of its attorneys or agents or by an attorney retained by the complainant.

35 (g) The commission shall have the power to subpoena witnesses, compel their attendance,
36 administer oaths, take testimony under oath and require the production of evidence relating to the
37 matter in question before it. The testimony taken at the hearing, which shall be public, shall be
38 under oath and shall be recorded or transcribed and filed with the commission.

39 (h) If, upon all the evidence, the hearing commissioner or hearing officer shall determine
40 that the respondent has engaged in an unfair educational practice, the commissioner or hearing
41 officer shall state the findings of fact and conclusions, and shall issue and cause to be served
42 upon the complainant and the respondent a copy of such findings and conclusions and an order
43 requiring the respondent to cease and desist from such unfair educational practice. The
44 commission may also take such affirmative action or issue any such other order as it may deem
45 just and proper consistent with the provisions of Section 5 of Chapter 151B of the Massachusetts
46 General Laws, as appearing in the 2014 Official Edition, including reasonable attorney's fees
47 and costs to any prevailing complainant.

48 (i) If, upon all the evidence, the hearing commissioner or hearing officer shall find that a
49 respondent has not engaged in any unfair educational practice, the hearing commissioner or
50 hearing officer shall state the findings of fact and conclusions and shall issue and cause to be
51 served on the complainant and respondent a copy of such findings and conclusions and an order
52 dismissing the complaint as to such respondent.

53 (j) Any party aggrieved by the decision of the hearing commissioner or hearing officer
54 shall have the right to file an appeal to the Full Commission, and if such an appeal is taken, the

- 55 decision of the Full Commission shall constitute the final agency decision for purposes of
- 56 Chapter 30A of the Massachusetts General Laws, as appearing in the 2014 Official Edition.