

# *So You Need to Sue Your School*

A LITIGATION AID FOR MAINE'S PUBLIC SCHOOL STUDENTS

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*for Nico*

Special thanks to those who gave their time and effort to making this project what it is. Without your insight, your connections, and your experience, this resource would have never made it off the ground.

To Brandon, Jami, Amy, and Flynn: thank you from the bottom of my heart!

# Introduction

When I was seventeen years old, I found myself in a difficult position.

My experience in high school had never been a particularly good one. I grew up in a small, conservative town that was, on principle, against many aspects of my identity. My peers were often cruel, and though I'd been able to manage it in the younger years, as we got older, the threats became more real. Unfortunately, this escalation was not limited to my fellow students; by junior year, it was also coming from teachers and administration and regularly occurring on school grounds, creating an active threat to my safety and inhibiting my access to education.

I got through my remaining time with support from friends and my parents, but we knew what was happening was not fair or legal. Because we were in a position to do so and could not stand to let this problem fester for another student, we decided to pursue litigation.

It was a long, arduous process. It was a constant learning curve when we couldn't necessarily afford to make any mistakes. We had very little help, and finding it was even more difficult. Once the school discovered what we were doing, they used their legal team to intentionally limit our options, contacting attorneys and giving them enough details that they could not legally assist us.

Though we fought long and hard, at the end of a two-year battle, we lost.

The panel that was supposed to hold the school accountable for what they had done deemed they had a "reasonable doubt" I had not been discriminated against (though, of course, we were told in private that if we had done a few things differently, they would have ruled in our favor).

It was my school's job to help protect and accommodate me. Instead, they made the problem worse. I'm very fortunate to have a strong support network because I was able to get by leaning on them. Not everyone in my situation at my school did, and that is something I will never forgive them for.

However, our loss does not mean it cannot be someone else's gain. We learned crucial information and met many other people who had done the same thing, with varying results. It has created a unique position where I have the ability to help ensure other students can start with the knowledge we had to gain.

In creating this resource, I hope to use what I and my family learned to help ensure others don't experience what I did. If schools are allowed to continuously get by without being held accountable for identity-based discrimination, they will remain an unsafe place for all of Maine's students.

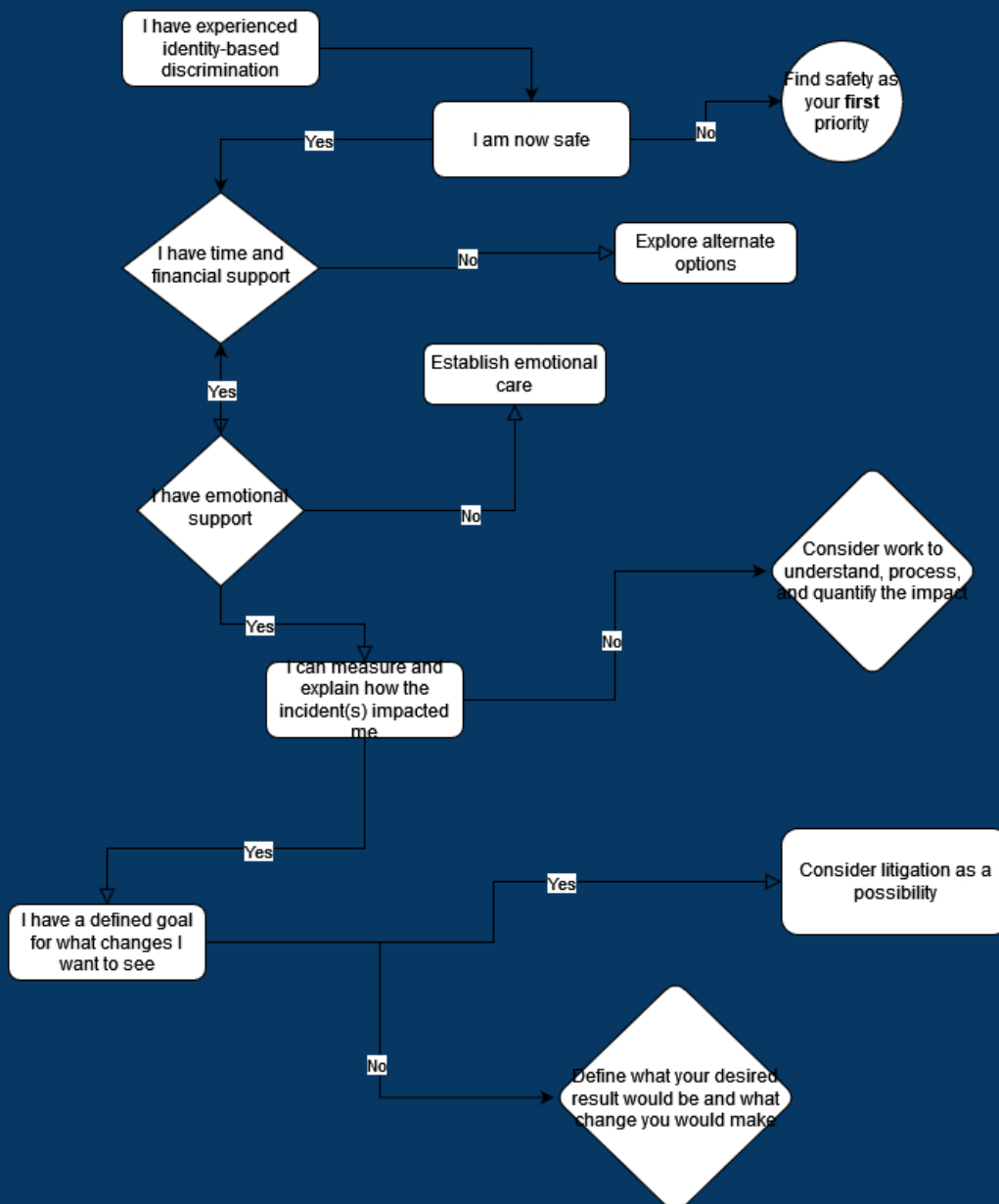
Though not exhaustive, this document is intended to serve as a jumping-off point for the litigation process—answering preliminary questions at no cost, providing a list of resources, and supplying anecdotal experience—so you can save time and focus on what matters most: your future.

Good luck, and remember: **you are not alone.**

# Am I Prepared?

Before you enter this process, it is important you know that you may not come out having gained anything but experience. In the words of Dr. Flynn Ross, who developed the [Equity and Excellence in Maine Schools](#) website- “The legal system is not healing. It is confrontational, costly, adversarial, punitive, and defensive, with the burden of proof put on the individual. If healing and growth is what is desired, alternative routes of mediation or restorative justice can be much more productive and satisfactory.”

The first step to entering the legal system willingly is knowing you want to be there. The following flow chart is intended to help you clarify that first critical step:



Please consult your own legal counsel about your specific case.

This document is meant to serve *only* as a reference, as each case is highly individual. Information included here is anecdotal and *not* to be considered counsel.

## Determining Your Goals

Determining what you hope to gain out of the legal process is an important step in determining whether or not you wish to pursue litigation, and if you do, what you plan to ask for or seek out. Asking yourself questions can help to narrow this down and make sure you're specific about what you're looking for.

The Maine Human Rights Commission, where you will submit your complaint if you choose to do so, gives you 300 days from the time of the incident to submit. You can do that [here](#), as well as gain some more information about how to file and whether or not you qualify. This means you have almost a year to submit your materials and gather information. Having more time, though, doesn't mean you should wait to write things down. If you can, record details of the incident *as soon as possible* so you don't forget anything important.

Knowing what you hope to get out of the process helps you to decide what route you want to take. If you decide to take the route of litigation, you can figure out what that looks like for you and what you need to prepare. Are you representing yourself? Finding representation? What evidence do you have? What changes do you want to see the school make? Do you need compensation? Figuring these details out before you start is crucial and helpful.

If you don't have the resources to pursue litigation, there might be some other options available to you if you're interested in trying to change things within your school. Some that have low resource demands of you could include:

- 1.) Restorative justice (I recommend the fantastic book *Circle Forward* if you're interested in learning more)
- 2.) Trainings with the school through an organization like the Civil Rights Team Project
- 3.) Personal support services or an IEP

Though these options may not be ideal, they could still provide closure and increase safety within the school for your student and others. A combination of options is also a possibility, and can be tailored to you and your needs.

## Planning Your Course of Action

Once you're able to determine what you want to do and how you want to do it, plan out when you'll need to have things done by. I personally would buy or print out a planner as I think it's helpful to have a physical copy, but this isn't a necessity! Digital is fine if that works for you.

Make sure to make a list of important dates you can't forget and set reminders in your phone for a few days before those deadlines for check-ins. If there are workshops or information sessions you need to attend, sign up for them well in advance. Attorneys often have very limited availability, so if you are working with them, you'll need to make sure you're organized with your time to get the most out of that relationship.

If you have any interest in working with the school to have staff or students attend trainings, the [Maine Civil Rights Team Project](#) is a fantastic resource. They can help connect you with qualified people all across the state to come in and work with the school, and have a host of resources available to help guide you. Collaboration can potentially fit well into a plan of action, because it demonstrates a willingness to make change. It should be noted, however, that it is far from necessary- if this isn't an option for you, that is perfectly okay and you should feel no obligation. You can also choose to connect the school with them, and allow them to take initiative on organizing a training if they choose to do so. If they don't, take note of it and present that along with the rest of your case information.

The more advanced you can be in planning, the better off you'll be. Staying ahead of deadlines and keeping specific folders to organize materials will save you time and stress, and ensure you know where things are when you need them. Having a defined plan can also give peace of mind to your student, as there will be few surprises and lots of ways to prepare for potentially stressful events.

# Identifying Resource Needs

Knowing your own access to resources is a critical factor in this process. Understanding how much time, money, and effort you can invest is something you should know before you begin, and if you don't have what you need, figuring out how to get it is something you have time to do.

Ask yourself the following questions (feel free to use the space to jot down notes):

- 1.) What is my budget for this? Do I have any income to spare, or do I need funding?
- 2.) If need be, can I take time off of work or school to attend important meetings?
- 3.) Am I emotionally stable enough to answer questions and recount details of events that impacted me?
- 4.) Do I or my student have a support network available to step in when needed?
- 5.) If I don't have these things and have determined that I will need them, how do I get access to them? Is there an organization I know of that can provide assistance to me?
- 6.) How much time do I have left before I need to submit my claim? Is it realistic to complete it in this time on my own, or do I need help?



## Obtaining Legal Counsel

Though not an absolute necessity, obtaining legal counsel can make a big difference in the outcome of your case, your stress levels, and your degree of interaction with the school. Depending on route you take, legal counsel and representation can be expensive and frustrating to find, which is important to know before you begin.

If you are interested in obtaining counsel, begin exploring your options before you notify your school of your intent to sue. Call local offices and ask about their services, and ask family and friends if they have someone they trust that they've worked with before. Maine has several organizations that offer pro-bono legal representation, including the Maine Justice Foundation, the Maine Volunteer Lawyer Project, and the Maine Association of Nonprofits. Exploring all of your options will benefit you, and even if you can't afford full representation, a meeting may assist you in effectively compiling what you need.

Ensuring you DO NOT share details of your case with third parties is critical through this process. Though it may be tempting, don't share critical information with anyone who is not involved or will be involved. Sharing details with uninvolved parties, especially when you have begun the process of litigation, can have your case thrown out. Take this very seriously, and exercise caution.

# Caring for Yourself

Though it's been said enough to sound like a buzzword, self care is never more important than when you're experiencing adversity. Ensuring that you have your needs met makes sure you have the stamina and fortitude to see your case or journey through to its end, and that's an important thing to prioritize.

It may be helpful to create a checklist you can go through each day to make sure those critical needs are met. It may seem obvious, but it becomes surprisingly easy to neglect your basic needs when stress has taken over your nervous system. Include things like drinking water, getting six to eight hours of sleep, eating at least two meals a day, getting outside and getting moderate exercise, showering and brushing your teeth, and anything else that keeps you going.

When we're stressed and we forget to meet our needs, we become easily overwhelmed, irritable, tired, and depressed. When you have experienced a potentially traumatic event, these factors are likely already present. Working to mitigate and not exacerbate them is important, and if you're having a hard time doing it on your own (and even if you aren't) you may find it useful to seek therapeutic care.

There are many kinds of therapy you can engage in, and what you select is up to you. Maybe it would help to speak in a group setting, or maybe you want to find someone who will go on walks with you while you talk. There are many great options out there, but finding someone to support you through the process is something I highly recommend, even if you don't think you need it! There are offices in Maine who provide therapeutic services pro bono, and it's worth trying even just one session to see how you feel.

# Building Community

For many of us, when the day starts and ends, community is all that we have. The people we surround ourselves with determine much of our daily experiences, and ensuring that that network is supportive and not reductive can make or break our success in difficult times.

Knowing how to build a community can be tough and present a lot of challenges, but it is one of the most important things you can do in this scenario. If you already have a community you know you can rely on, that's fantastic! Use it- I promise they want to help, even if you're worried about bothering them. If you don't and you're not sure where to start, here are some quick pointers:

- 1.) Research activities that are designed for people who share your or your student's identity and participate in them! This is a great way to meet people, and folks who go out and do these activities often are well connected.
- 2.) Find organizations that serve your population and reach out to them. Even if they don't have support services listed, they likely know people who provide them, and they can be a big help in getting and staying involved.
- 3.) Encourage time with friends and family! If they're supportive, make sure you schedule time to spend with them. Even if you can't share details, it's good to take your mind off of the stress and have time to relax and recuperate. Lean in to it!
- 4.) If there are no community-based groups, that's okay too! Try to find something you can consistently get involved in, and go as often as you can. Regular involvement feels good and makes connections, and widens your world when it can feel very narrow!

# The Importance of Checking In

Whether you are the student, the student's guardian, a supporting adult, or a friend, it's important to understand the importance of checking in with yourself and those around you. This process, no matter what route you take, is taxing. It will take a toll on you mentally, physically, and emotionally, and knowing when to take breaks, how to communicate your needs, and what questions to ask can be critical in making it through the process as confidently and with as much support as you can.

Questions such as "What can I do for you?" while they seem well-meaning, can quickly cause someone already experiencing high levels of stress to feel overwhelmed. High expectations of your own support needs can be difficult, and asking more targeted questions can help your student to feel more supported. Try checking in with questions that meet specific needs or even suggest a goal already in mind, like "What have you eaten today?", "Do you want water?", "Would you like to go for a walk?", "Do you want to come with me to [the store, a fun event, something you know they enjoy doing]", and many more.

The more direct and intentional you can be with your support, the more likely your student is to feel like their support needs are being met. If you aren't sure what that looks like for them, it's more than okay to have that conversation, but make sure you listen and don't continue to expect them to tell you! They've got a lot going on.

# What Happens After?

After a decision has been made in your case, it doesn't necessarily mean the process is over. Though this may seem surprising, you still have options available to you, and potentially even responsibility, depending on the decision and nature of the case.

## **Ruling in Favor of School:**

In the event that the ruling is in favor of the school, you have the option to appeal. Appealing a decision begins a new round of investigation, and may allow you to submit additional information you haven't yet provided.

## **Ruling in Favor of You:**

If all goes well and they rule in your favor, that you have in fact experienced discrimination the school could have prevented and they are required to meet your demands in some capacity, you'll now go through the process of navigating this.

This may mean you need to create a plan with the school with an outlined timeline for needs being met, or if you have legal representation, they may be able to do this for you. Make sure you ask any questions you might have, and leave no stone unturned!

## Resource Bank

Maine Human Rights Commission: <https://www.maine.gov/mhrc/>

OUTMaine: <https://www.outmaine.org/resources/>

Disability Rights Maine: <https://www.drme.org/>

NAACP Legal Defense Fund: <https://www.naacpldf.org/contact-us/legal-assistance/>

Maine Volunteer Lawyers Project: <https://www.vlp.org/>

Maine Association of Nonprofits Pro Bono Legal Assistance:

<https://www.nonprofitmaine.org/pro-bono-assistance>

Maine Justice Foundation Legal Aid Resources: <https://justicemaine.org/about/providers/>

Equity and Excellence in Maine Schools:

<https://usm.maine.edu/equity-excellence-maine-schools/>

Equality Community Center: <https://eccmaine.org/>

Comparable Decisions through the MHRC: <https://www.maine.gov/mhrc/decisions>

Religious Coalition Against Discrimination: <http://www.rcadmaine.org/>

GLAAD: <https://glaad.org/>

Maine Civil Rights Team Project: [https://www.maine.gov/ag/civil\\_rights/index.shtml](https://www.maine.gov/ag/civil_rights/index.shtml)

Anti-Defamation League: <https://www.adl.org/>

Lambda Legal: <https://lambdalegal.org/>