

# Mental Health Legal Advisors Committee (MHLAC)



399 Washington Street, 4th Floor, Boston, MA 02108  
[www.mass.gov/mhlac](http://www.mass.gov/mhlac)

## Providing Free Legal Assistance for DYS-involved Youth in Massachusetts

### MHLAC assists DYS-involved youth with transition

MHLAC is an independent state agency that specializes in areas including mental health, family law, and education law. We work closely with our clients -- communicating by phone or in person. We aim to serve low income families and we do not charge for our services. We are especially interested in serving youth who have been confined in DYS placements and who may not have ongoing legal assistance, or youth who are transitioning back to the community.

In January, MHLAC represented a 17 year old special education student, recently released from DYS custody, in appealing his school expulsion.

Our client had spent a year in a DYS secure treatment center for a felony conviction. While at DYS, the Student completed the requisite treatment and counseling for his offense. In November 2005, he was released from DYS on a grant of conditional liberty, and moved to the town where his father resides (which is a different municipality than where he resided before his DYS commitment). The Principal of that new school district refused enrollment, basing his decision solely on the Student's felony conviction.

At that point MHLAC became involved and informed the school district that it could not lawfully deny the Student enrollment. MHLAC cited

M.G.L. 71, s. 37H 1/2(2) (student discipline law) and IDEA 2004, s. 615(k)(1)(E)(i) (special ed law, summarized below). MHLAC also filed an administrative complaint with the Department of Education's Program Quality Assurance Services. The Principal then agreed to enroll the Student, but immediately expelled him. A week later, a hearing was held at which MHLAC appealed the expulsion, again citing Section 37H1/2(2) and Section 615(k)(1)(E)(i).

After considering our legal arguments and testimony from the Student and his parents, the Superintendent set aside the expulsion and allowed the Student to attend the local high school. The Student is now attending school and is excited to be given a second chance.

Questions about...  
Mental Health Care  
Special Education  
Appropriate Placement  
Rights in Facilities  
Restraint  
Disability Discrimination  
Transition to the Community

We welcome calls from youth, families, advocates, and clinicians.

Please contact

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Changes to IDEA 2004, s. 615(k)(1)(E)(i):

A manifestation determination is required within 10 school days of any decision to impose discipline of a special education student that would result in a change of placement. The new standard is: Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school, parent, and relevant members of the IEP team shall review all relevant information in the student's file to determine if the conduct was:

- Caused by, or was in direct and substantial relationship to, the child's disability; or
- A direct result of the school's failure to implement the IEP.

The manifestation determination provides a level of protection for special ed students being threatened with expulsion or long-term suspension.

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### MA Federal Court Decision on Children with Mental Illnesses

Youth with mental health problems are over-represented in the juvenile justice system. In 2004, between 60–70% of youth in DYS facilities in the state had symptoms of significant mental disturbance. Furthermore, approximately 54% of children involved with DYS are also involved with DSS.

In January, a federal district court in Massachusetts issued a landmark decision that will affect thousands of children who have mental health problems and are eligible for Medicaid. The court decided

the state has failed to provide adequate, timely health services, such as early and periodic screening, diagnostic, and treatment services, which are required by the Medicaid Act. The decision should allow youths currently receiving psychiatric services in hospital or residential treatment settings, to be served in their own homes.

Because youth in the custody of DYS or youth who have an open case with DSS (even if their parents' have physical custody) are enrolled in the

state's Medicaid program, "MassHealth," they will be affected by this decision as well. For these children, the ruling should lead to more home-based care for severe mental health problems.

The suit was filed in 2001 by attorneys from the Center for Public Representation, Wilmer Cutler Pickering Hale and Dorr, LLP, and MHLAC.

For further information about the [Rosie D. v. Romney](#) case, go to our website at: [www.mass.gov/mhlac](http://www.mass.gov/mhlac).