



## Compliance Duties Don't Cancel Whistleblower Rights

On January 27, 2026, the Massachusetts Supreme Judicial Court issued a significant decision in *Thomas Galvin v. Roxbury Community College* clarifying the scope of protection under the Massachusetts Whistleblower Act, G.L.c. 149, §185. The Court held that a public employee may engage in protected whistleblowing activity even if identifying legal violations falls within the employee's job responsibilities and even if the employee may have been involved in the underlying compliance failures.

The decision provides important guidance for public employers, particularly educational institutions and other entities that rely on internal compliance officers or administrators to oversee regulatory obligations.

The plaintiff served as Roxbury Community College's Director of Facilities and Public Safety and was the college's primary campus security authority responsible for compliance with the federal Clery Act. Over a number of years, a student reported allegations of sexual assault to multiple senior administrators. Despite those reports, the college failed to disclose the allegations to the U.S. Department of Education as required by federal law. The plaintiff raised concerns internally, sought guidance from the Department of Education, disclosed the issue to the State Auditor's Office, and later formally objected in writing to the board of trustees regarding the college's failure to comply with its reporting obligations.

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## FIRM NEWS

### Smith Kane Turns 30 With A New Name!



Matthew Kane

Matt Kane was quoted in a recent *Legal Management Article* on Partner Transition Planning.

Matt Kane and Payal Salsburg served as faculty for MCLE's 11th Annual Appellate Practice Conference.



Payal Salsburg

Payal Salsburg served as moderator of a BBA webinar, "From Practice to Politics: Candid Stories from Women Who've Done It."



Brendan Cox

Brendan Cox was quoted in a recent *Law360 article*, "What To Do When Jurors Don't Trust the Science."

**The Legal 500's Boston City Elite named Matt Kane (*Commercial Litigation*) & Payal Salsburg (*White Collar Crime*) in their 2026 rankings.**

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After external audits confirmed that Clery Act violations had occurred, the college terminated the plaintiff's employment. The college asserted that the decision was based on performance deficiencies, including the plaintiff's own failures to ensure regulatory compliance. The plaintiff sued, alleging that he was terminated in retaliation for whistleblowing in violation of the Massachusetts Whistleblower Act. A jury agreed and awarded substantial damages.

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On appeal, the college argued that the plaintiff could not qualify as a whistleblower because reporting Clery Act violations was part of his job and because he was himself implicated in the failures to report. The Supreme Judicial Court rejected those arguments and affirmed the verdict.

The Court held that when an employee objects to conduct that is undisputedly unlawful, the employee engages in protected activity as a matter of law. The statute requires only an objectively reasonable belief that a legal violation occurred, and that standard is automatically satisfied where the illegality is not in dispute. The Court further concluded that the Whistleblower Act does not exclude employees who had compliance responsibilities or who may have been involved in the misconduct they report.



Importantly, the Court drew a clear distinction between whistleblower status and cause for termination. While an employer remains free to discipline or terminate an employee for legitimate performance issues or misconduct, the employer may not do so because the employee objected to unlawful conduct. Determining whether the termination was motivated by whistleblowing or by performance failures is a fact-specific inquiry for the jury.

For public employers, this decision underscores the need for caution when responding to internal reports of regulatory violations, particularly when those reports come from compliance officers or administrators tasked with oversight. The ruling reinforces that the Whistleblower Act is intended to encourage the reporting of unlawful activity, not to penalize those closest to identifying it. Employers should ensure that adverse employment decisions are well documented, clearly grounded in legitimate performance concerns or other business needs unrelated to protected reporting activity, and carefully separated from any such activity. As regulatory scrutiny and enforcement continue to increase, this case serves as a reminder that an organization's response to internal compliance concerns can have significant legal consequences.