

## 42 U.S.C. § 1983

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**42 U.S.C. § 1983**, popularly known as "**Section 1983**," is a federal law that allows lawsuits for violations of constitutional rights.

Section 1983 establishes a cause of action for any person who has been deprived of rights secured by the Constitution or laws of the United States by a person acting under color of state law. A plaintiff must prove that (1) the conduct was committed by a person acting under color of state law and (2) that as a result of this conduct plaintiff was deprived of rights, privileges or immunities secured by the Constitution or the laws of the United States.

The first requirement is known as the state action requirement. Plaintiff must prove that conduct was "fairly attributable to the state," and attribution is limited because it "preserves an area of individual freedom by limiting the reach of federal law and federal judicial powers." *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 936 (1982).

In *Monell v. Department of Social Services*, the U.S. Supreme Court held that municipalities and local governments can be sued if the action was attributable to an official policy. They do not enjoy absolute immunity. But the defendant municipal officials must have had "final policymaking authority" to bind the municipality.

The Eleventh Amendment prohibits Section 1983 claims against states and therefore state officials for money damages.

Section 1988 of Title 42 of the United States Code provides for reimbursement of attorneys' fees to plaintiffs who prevail under Section 1983. Defendants may obtain attorneys' fees only if the action is frivolous. *See Hughes v. Rowe* (1980).

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Section 1983 provides a federal cause of action against any person who, acting under color of state law, deprives another of his federal rights. 42 U.S.C. § 1983. In order to prevail in a § 1983 action for civil damages from a government official performing discretionary functions, the defense of qualified immunity that our cases have recognized requires that the official be shown to have violated "clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 73 L. Ed. 2d 396, 102 S. Ct. 2727 (1982). Thus a court must first determine whether the plaintiff has alleged the deprivation of an actual constitutional right at all, and if so, proceed to determine whether that right was clearly established at the time of the alleged violation. See *Siegert v. Gilley*, 500 U.S. 226, 232-233, 114 L. Ed. 2d 277, 111 S. Ct. 1789 (1991); see also *County of Sacramento v. Lewis*, 523 U.S. 833, 841, n. 5, 140 L. Ed. 2d 1043, 118 S. Ct. 1708 (1998).

## Statutory Language

42 U.S.C. §1983 authorizes lawsuits against state officials, local officials, and sometimes local governments for violating federal constitutional and statutory rights. The text of the statute is as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress ....

## Elements

A cause of action under Section 1983 requires four elements:

1. conduct by a "person"
2. who acted under "color of law"
3. and proximately caused
4. a deprivation of federally protected rights.

## Defenses

- *Committee of United States Citizens v. Reagan*, 859 F.2d 929, 944 (D.C. Cir. 1988) ("Because the fact of a state law violation does not resolve whether a plaintiff has been deprived of due process, the manner in which the violation occurs as well as its consequences are crucial factors to be considered.")

## References

1. ↑ *Conn v. Gabbert*, 526 U.S. 286 (1999).

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- This page was last modified on 25 June 2012, at 00:48.