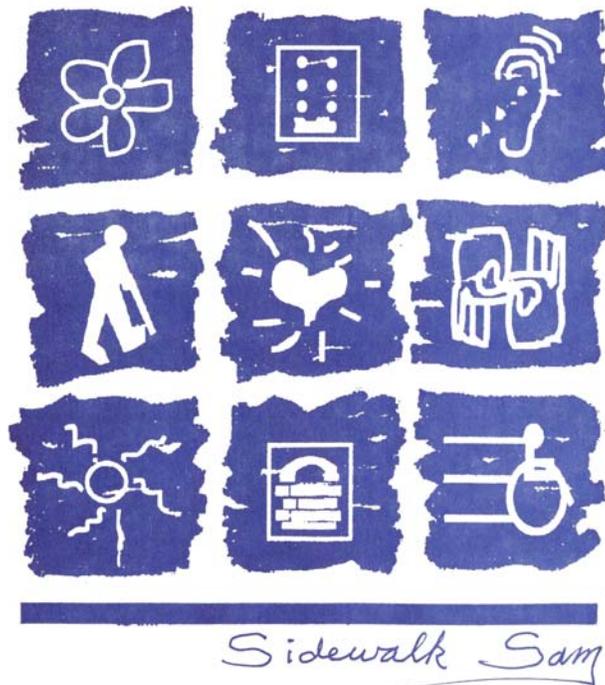


The Disability Handbook

For The Executive Branch



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Timothy P. Murray, Lt. Governor
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Acknowledgements:

Every attempt was made to provide a concise and easy to follow guide for staff of Executive Branch Entities to use to ensure all our services, programs and activities are accessible to all our citizens.

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I. INTRODUCTION

This Chapter is divided into six sections:

- The Handbook
- Who is Considered Disabled?
- Basic Principles of Access
- Getting Started
- Policies and Procedures
- Contacts





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The Disability Handbook



1. The Handbook

The Disability Handbook is a collection of information to ensure that the Executive Branch of Massachusetts State Government is accessible to individuals with disabilities. The content of this handbook is designed to assist Executive Branch personnel in their efforts to provide such accessibility.

Governor Patrick, through his issuance of Executive Order 478, has reaffirmed the administration's commitment to fostering an attitude of inclusion and a commitment to access that will permeate all Executive Branch programs, services and activities. While certain aspects of providing access for people with disabilities can be clearly visible (sign language interpreters, ramps, and Braille documents), other aspects may easily pass unnoticed.

The following sections are based on the protocols established by the Department of Justice for compliance, and are intended to provide guidance, checklists and forms that will help Executive Branch Entities to comply with the Commonwealth's obligations under the Americans with Disabilities Act, Section 504 the Rehabilitation Act and various other state and federal legal obligations intended to ensure accessibility for all people with disabilities.

DISCLAIMER: The Americans with Disabilities Act (Pub. L. 92-603, as amended), Rehabilitation Act of 1973, (Pub.L. 93-112, 87 Stat. 394, 29 U.S.C. 794, as amended by the Rehabilitation Act Amendments of 1974, Pub.L. 93-516, 88 Stat. 1617, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub.L. 95-602, 92 Stat. 2955, and the Rehabilitation Act Amendments of 1986, sec. 103(d), Pub.L. 99-506, 100 Stat. 1810) and various state and federal laws create specific causes of action for persons who are aggrieved by discriminatory treatment as defined in the Act. This Handbook is intended to guide implementation of the Executive Branch's responsibilities under the ADA, Section 504 of the Rehabilitation Act and related state and federal laws. It is for internal staff use and public information only, and is not intended to create any rights, responsibilities, or independent cause of action against the Commonwealth of Massachusetts or any of its government entities.





2. Who Is Considered Disabled?

The Americans with Disabilities Act and the Massachusetts Disability-Based Non-Discrimination Standards for Executive Branch Entities, §4.03 define a “disability” as:

- a physical or mental impairment that substantially limits one or more major life activities;
- having a record of such an impairment; or
- being regarded as having such an impairment.¹

This is intended to be a broad definition, in order to ensure the eradication of discrimination. In assessing if a person has a disability, the Massachusetts Commission Against Discrimination has determined that one looks at the individual without any medication, prosthetics, devices or any other “mitigating measures” available to the individual.

However, disability does not include short-term illnesses and injuries. It also does not include:

- Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
- Compulsive gambling, kleptomania, or pyromania; or
- Psychoactive substance use disorders resulting from current illegal use of drugs.

¹ Massachusetts Disability-Based Non-Discrimination Standards for Executive Branch Entities, §4.03, contained in Appendix 5 of this Handbook.





3. Basic Principles of Access

A basic principal of this administration is that all interested individuals with disabilities have access to employment opportunities, programs, services and activities. When business is conducted with this principal in mind, then the means for providing access is only a matter of mechanics – matching the solution to the need. It is when people with disabilities are overlooked as potential or actual consumers that barriers are raised. Ironically, it is these often unconscious barriers that can be the hardest to overcome. This Handbook strives to provide the information and tools necessary for staff of the Executive Branch to incorporate the basic principal of accessibility in all we do.

4. Getting Started

Executive Branch Entities have a few basic administrative jobs that must be taken care of to make sure the entity is set up to work effectively with people who have disabilities.

- Appoint a Coordinator who is sufficiently highly placed within the organization to be able to get results. (Attachment 1)
- Post a Notice of Non-Discrimination and Grievance Policies. (Attachment 2)
- Establish a Grievance Procedure for consumers and employees. (Attachment 3)
- Establish a Compliance Policy. (Attachment 4)
- Become familiar with the [Contacts](#) list that appears at the end of this chapter.





a. The ADA/504 Coordinator

This is the go-to person within the Executive Branch Entity to answer disability related questions from staff and citizens with whom the Executive Branch Entity interacts. In order to do this job effectively the person designated as the ADA/504 Coordinator must have knowledge of state and federal disability laws.

The ADA/504 Coordinator plays an essential role within an Executive Branch Entity. This person is the Executive Branch Entity's primary internal resource to provide disability related technical assistance, and therefore must be placed high enough within the Executive Branch Entity's structure to be able to make decisions or to have direct contact with the Executive Branch Entity head in order to discuss matters that directly impact the Executive Branch Entity's employees, policies, procedures, programs and provision of services.

The ADA/504 Coordinator is someone who has highly developed interpersonal skills for dealing with sensitive, emotional or potentially controversial interpersonal situations. This person has the ability to exercise discretion in handling confidential information and knows how to work with individuals to overcome resistance, change behavior or motivate others. The ADA/504 Coordinator is resourceful and knows how to work across Executive Branch Entity and governmental branch lines to foster partnerships and relationships that will result in better and more complete access for people with disabilities.

The form Executive Branch Entities should use when selecting a Coordinator appears on the next page, as Attachment 1.



ATTACHMENT 1 - ADA/504 Coordinator Designation

Executive Branch Entity Designation of ADA/504 Coordinator

In accordance with Executive Order 478, each Executive Branch Entity shall appoint an ADA/504 Coordinator who shall report directly to the Executive Branch Entity head and work with the Massachusetts Office on Disability concerning issues involving persons with disabilities, and where state employee matters are involved with the Office of Diversity and Equal Opportunity. Notification of such appointment shall be made to the Massachusetts Office on Disability at the address below.

1. Executive Branch Entity Name					
2. ADA/504 Coordinator's Name					
3. E-Mail			4. Phone		
5. Address					
6. Job Title					
7. Date Appointed	___/___/20__	8. Is this appointment?	PERMANENT	ACTING	
9. Does ADA/504 Coordinator report directly to the appointing authority?				YES	NO
10. Are ADA/504 duties	FULL TIME?	PART TIME?	10a. If part time, what % of an FTE?		
11. Direct Supervisor	Name			Title	
Information Or Training Needed for the Coordinator (check all that apply)					
a. Employment Rights		f. Public Program Access			
b. Education Rights		g. Privacy Protections			
c. Housing Rights		h. Other (Please Specify)			
d. Open Meetings Laws					
e. Physical Barrier Removal					
Signatures					
Appointing Authority				Date	___/___/20__
ADA/504 Coordinator				Date	___/___/20__

ADDRESS QUESTIONS TO:

Barbara Lybarger at barbara.lybarger@state.ma.us or 617-727-7440, ext. 27315

SUBMIT COMPLETED DESIGNATION TO:

Barbara E. Lybarger, ADA Coordinator, Massachusetts Office on Disability, One Ashburton Place, #1305, Boston, MA 02108





b. Public Notice

All public entities including state Executive Branch Entities must inform people of the protections of the ADA. This notice of non discrimination must be posted in a public area and/or must be made available in other ways.

It is important to remember the target audience of this notice is everyone who interacts or who would potentially interact with the Executive Branch Entity. It is not a one-time requirement, but must be provided on an on-going basis. Examples of where this should be found are in job postings, on the Executive Branch Entity's website, at all facilities, in program handbooks, in activity schedules, and when meetings are announced.

It is also important to keep in mind the requirements to provide effective communication (see Chapter III) which may require this notice be posted in ways other than a printed notice on a bulletin board.

A sample public notice appears on the next page as Attachment 2.



ATTACHMENT 2 - SAMPLE PUBLIC NOTICE



PUBLIC NOTICE
NON-DISCRIMINATION BASED ON
DISABILITY
COMMONWEALTH OF MASSACHUSETTS
(AGENCY NAME)

The (AGENCY NAME) advises its employees and the public that it does not discriminate on the basis of a person's disability in employment or in access to its programs, services, and activities. (APPOINTING AUTHORITY NAME), (TITLE), has designated (ADA/504 COORDINATOR NAME), (TITLE), to coordinate efforts to comply with the requirements of Executive Order 478, the Americans with Disabilities Act, the federal Rehabilitation Act and various other federal and state laws protecting the rights of people with disabilities.

Inquiries, requests, and complaints should be directed to:

(NAME), ADA/504 COORDINATOR
(AGENCY NAME)
(STREET ADDRESS)
(CITY/TOWN, STATE, ZIP CODE)
(TELEPHONE NUMBER), (TTY NUMBER), (FAX NUMBER)
(E MAIL ADDRESS)





c. Grievance Procedure

Even the most well intentioned Executive Branch Entity may not fully meet the expectations of their employees or a member of the public with whom they are interacting, or may find that they have in some way discriminated against a person with a disability. The ADA requires that a procedure be established that addresses these situations to provide a prompt and equitable resolution. The following sample Grievance Procedures have been established for use by Massachusetts Executive Branch Entities.





ATTACHMENT 3 - GRIEVANCE PROCEDURES

GUIDELINES RELATED TO DISABILITY-BASED DISCRIMINATION & REASONABLE ACCOMMODATION MODIFICATION ACTION

The following are guidelines for informal grievance procedures for complaints of disability based discrimination and denial of reasonable modification of an Executive Branch Entity's policies and procedures in the operation of its programs, activities and services.

The entity will do the following:

- Inform all staff and the public that they can directly report complaints of discrimination or denial of reasonable modification to any Executive Branch Entity charged with enforcing disability based non-discrimination laws, including but not limited to the Massachusetts Commission Against Discrimination, the Massachusetts Office on Disability, the Courts or other established state or federal entities. However, they need not use any internal process, unless they choose to do so.
- Inform all staff and the public that they may also report any complaints of discrimination or denial of reasonable modification to its ADA/504 Coordinator.
- Charge the ADA/504 Coordinator with:
 - Addressing disability related complaints including at least investigating and issuing written decisions, as well as, where the complainant prevails, corrective action plans within 30 days of the filing of the original complaint;
 - Providing the complaining party an opportunity to give oral or written notice to the ADA/504 Coordinator that he/she is not satisfied with the action taken, and
 - Forwarding the matter to the ADA/504 Coordinator for the entity's Secretariat.
- File an annual report with the Massachusetts Office on Disability listing and summarizing all complaints filed against it and their status or disposition, and
- Prominently display and disseminate its grievance procedures.

If not resolved by the Secretariat ADA/504 Coordinator to the satisfaction of the complainant within 10 business days, the Secretariat shall notify the Massachusetts Office on Disability of the particulars of the complaint and its status.

Notes:

1. MOD jurisdiction over complaints is limited to the public accommodations and state government programs, activities and services provisions -- Not employment.
2. Employment-related complaints from applicants or employees of Executive Branch Entities should be addressed under the policies and procedures established by the [Office of Diversity and Equal Opportunity](#).
3. The process established here is intended as a quick informal process, similar to that in the ADA. It does not substitute for the more formal MCAD, ORC or Court processes.





(SAMPLE GRIEVANCE PROCEDURE)

(Entity Name) has adopted an informal grievance procedure providing for prompt and equitable resolution of complaints alleging any violation of state or federal laws and regulations protecting individuals from discrimination based on disability in the provision of programs, activities and services.

1. The laws and regulations may be examined in the office of (name the ADA/504 Coordinator), at (address), (telephone number), (TTY) (e-mail). This person has been designated to coordinate the efforts of the organization to comply with the regulations:
2. A complaint must state the name and address of the person filing it and a brief description of the alleged action prohibited by the laws and regulations and the date it allegedly occurred.
3. A complaint should be filed in the office of (name of the person designated to administer the grievance procedure as the ADA/504 Coordinator), within a reasonable amount of time, but no more than thirty [30] days, after the action alleged to be legally prohibited.
4. (Name of the person designated to administer the grievance procedure as the ADA/504 Coordinator) shall investigate the complaint to determine its validity. These rules contemplate informal but thorough investigations, affording to all and their representatives, if any, a meaningful opportunity to submit evidence relevant to the complaint.
5. (Name of the person designated to administer the grievance procedure as the ADA/504 Coordinator) shall issue a written decision determining the validity of the complaint no later than thirty [30] days after its receipt and issue a corrective action plan where the complainant prevails and the circumstances warrant.
6. (Name of the person designated to administer the grievance procedure as the ADA/504 Coordinator) shall maintain the files and records relating to complaints filed hereunder. (Name of the person designated to administer the grievance procedure as the ADA/504 Coordinator) may assist persons with the preparation and filing of complaints, participate in the investigation of complaints and notify the Chief Executive Officer or Head of the Board of Directors of the [Entity] of the resolution of the complaints.
7. Where the complainant notifies the ADA/504 Coordinator that s/he is dissatisfied with the decision or corrective action plan specified under item 4 above, the ADA/504 Coordinator shall forward the matter to the Secretariat ADA/504 Coordinator for review.
8. The Secretariat ADA/504 Coordinator shall review the entity's finding, decision and corrective action plan, conduct such additional investigation as s/he deems appropriate to the circumstances, and issue a written decision affirming, reversing or modifying the original decision and/or corrective action plan.



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9. Prior to issuing a decision reversing or modifying a decision reviewed under items 7 and 8 above, the Secretariat ADA/504 Coordinator shall contact the Massachusetts Office on Disability (MOD) to discuss the merits of the grievance.
10. All negative decisions by the Secretariat ADA/504 Coordinator will be forwarded to MOD for review and possible modification. Negative decisions will not become final until 10 days after receipt by MOD.
11. The right of a person to the prompt and equitable resolution of a complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as the filing of a complaint with the MOD, the Massachusetts Commission Against Discrimination (MCAD), the appropriate federal Office for Civil Rights and/or any other federal and/or state entity or any state or federal court.
12. These rules shall be liberally construed to protect the substantial rights of interested persons, to meet appropriate due process standards and assure compliance with the law and regulations.

Notes:

4. MOD jurisdiction over complaints is limited to the public accommodations and state government programs, activities and services provisions -- Not employment.
5. Employment-related complaints from applicants or employees of Executive Branch Entities should be addressed under the policies and procedures established by the [Office of Diversity and Equal Opportunity](#).
6. The process established here is intended as a quick informal process, similar to that in the ADA. It does not substitute for the more formal MCAD, ORC or Court processes.

(Chief Executive Officer's Signature)

(Entity Name)

(Address)

(Telephone)

(TTY)





5. Policies and Procedures

The way an Executive Branch Entity typically conducts business, its established policies and procedures, may seem completely neutral on its face. Often times however, it is just this apparently neutral situation that we find needs to be modified in order to provide an equal opportunity for the participation of a person with a disability.

Examples of policies that may need modification would include requiring a driver's license as the only form of ID to purchase alcohol, or a summer day camp that requires a child who is a wheelchair user to be accompanied by an attendant, a "no-dogs" policy that excludes a person who uses a guide or service dog, or the imposition of a surcharge to cover the cost of a needed accommodation.

The development and modification of policy is a core function of most government entities. People with disabilities have just as much, and often more, at stake in these decisions as anyone else. Massachusetts and federal laws have set up frameworks that ensure people with disabilities:

- Are generally free from illegal discrimination,
- Have an equal opportunity to be part of the policy making processes,
- Have equal chance to participate in and benefit from programs, and
- Have a meaningful opportunity to obtain case-by-case changes to specific rules that would otherwise result in discrimination.

This section goes over some common situations where building disability rights into policy will enhance the quality of government services.



WHAT ARE THE CORE AREAS THAT NEED TO BE ADDRESSED?

Criteria or Methods of Administration:

An Executive Branch Entity is prohibited from using criteria or methods of administration:

- That subject qualified individuals with disabilities to discrimination;
- That defeat or substantially impair accomplishment of program objectives related to individuals with disabilities; or
- That perpetuates the disability based discrimination of another Executive Branch Entity.

These prohibitions specifically include direct actions by an Executive Branch Entity, as well as actions taken indirectly through contractual or other arrangements.

Denial of Participation on Planning or Advisory Boards

An Executive Branch Entity shall not deny a qualified individual with a disability of the opportunity to participate as a member of planning or advisory boards. To assure full participation, entities must also address the communication needs of people with disabilities. Upon request, written material should be made available in alternative formats (e.g., large print, Braille or audio tape). Auxiliary aids should also be provided at public meetings when necessary to provide full participation. For example, if a resident who is deaf wishes to participate, the Executive Branch Entity should provide a sign language interpreter.

Open Meetings

Meetings that are open to the public should be held in locations that provide, at a minimum, accessible parking, an accessible path of travel, an accessible entrance, and, if bathrooms are provided for public use, an accessible bathroom. Requirements such as making advance arrangements to attend meetings or being carried up stairs are unacceptable methods for obtaining access to meetings. If doors are activated via remote intercom systems, arrangements need to be made to allow access for people with disabilities who would not be able to use the intercom, such as those who are deaf or blind.²

² See the Joint Open Meeting Letter from Attorney General Coakley and MOD Director Berloff in Appendix 3 of this Handbook.





Policies, Practices, or Procedures

An Executive Branch Entity must make reasonable modifications in policies, practices, or procedures where the modifications are necessary to avoid discrimination on the basis of disability. This obligation is limited. An Executive Branch Entity can claim an exception if it demonstrates that making the modifications would fundamentally alter the nature of the service, program, or activity, or if it would place an unacceptably high financial or administrative burden on the entity.

Permissible Eligibility Criteria

An Executive Branch Entity may not impose eligibility criteria for participation in its programs, services, or activities that either screen out or tend to screen out people with disabilities, unless it can show that the criteria are necessary for the provision of the service, program, or activity.

Safety

An Executive Branch Entity may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, the Executive Branch Entity must ensure that its safety requirements are based on real risks, not on speculation, stereotypes, or generalizations about individuals with disabilities.

Participation in Planning and Advisory Boards and Commissions

People with disabilities have an equal right to participate in State government boards and commissions. In order for them to participate effectively, members with disabilities may need reasonable accommodations, such as reimbursement for travel costs, materials in another accessible format (Braille, large print, etc) or provision of Sign language interpreters or Communication Access Real-Time Translation CART.

Surcharges

An Executive Branch Entity may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of measures such as the provision of auxiliary aids and services, barrier removal, alternatives to barrier removal, and other reasonable modifications that are required to provide that individual or group with nondiscriminatory treatment required by state or federal law, regulation or policy.



EXCEPTIONS

These Standards do not require an Executive Branch Entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the Executive Branch Entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, an Executive Branch Entity has the burden of proving that compliance with these standards would result in such alteration or burdens.

The decision that compliance would result in such alteration or burdens must be made by the head of the Executive Branch Entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion and by a written statement of concurrence from the Director of the Office on Disability or her designee.

Even if an action required to comply with these Standards would result in such an alteration or such burdens, an Executive Branch Entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the Executive Branch Entity.





SAMPLE COMPLIANCE POLICIES

The following pages provide sample general policies and procedures which may be adapted to meet the needs of your entity.



ATTACHMENT 4

SAMPLE ADA/§504 COMPLAINCE POLICIES

1. GENERAL

It is the policy of (ENTITY NAME) to support and comply with both the requirements and principles of Section 504 of the Rehabilitation Act of 1973, Mass. Gen. L. ch. 151B, and the Americans with Disabilities Act of 1990 and to, in general, ensure that, to the maximum extent practicable, persons with disabilities are afforded equal access to the facilities, programs, and services of (ENTITY NAME) and that all otherwise qualified individuals receive equal employment opportunities.

Specific policies, procedures, and practices that (ENTITY NAME) has put in force toward achievement of these goals are as follows:

2. PROGRAM LOCATION(S)

Physical access to the programs and services of (ENTITY NAME) is a major focus of the self-evaluations. All programs, services, and activities will be examined.

Those programs, services, or activities that are found not to be accessible, as well as those that are, will be identified within the survey document along with explanations of the nature of their inaccessibility.

Wherever, in compliance with ADA and applicable State architectural access codes, whichever is stricter, equal access is limited or precluded by structural barriers, priority will be given to removal of these barriers over alternative methods of achieving program access.

When structural changes are undertaken, a written one to three year transition plan citing the steps to be taken and anticipated timelines will be developed and incorporated within the evaluation document.

Should new construction or qualifying renovations be undertaken, (ENTITY NAME) will ensure that all requirements, as applicable, of the ADA Accessibility Guidelines (ADAAG), the ADA, and the Massachusetts Architectural Access Code are met or exceeded.





3. COMMUNICATION

a. EMERGENCY

Emergency alarm devices in all public areas are both visual and auditory. Emergency evacuation procedures including people with disabilities have been developed and are, for each facility, described in attached documents.

The individual(s) responsible for coordinating training for emergency evacuation in each program location (facility) is (are): (EMPLOYEE NAME) (PROGRAM LOCATION)

Information on emergency evacuation procedures will, as appropriate, be provided to consumers verbally, in written form, and in alternative formats as earlier described.

b. TELECOMMUNICATION DEVICES FOR THE DEAF - TTY

(ENTITY NAME) has available at all times and at each of its facilities a Telecommunication Device for the Deaf (TTY). If a dedicated telephone line is used for the TTY, this number will be so designated in the Telephone Directory and on all materials on which program telephone numbers appear. Otherwise, the notice of "Voice/TTY" will be utilized.

All staff that have responsibilities which require telephone communication will be provided with basic training in use of the TTY. Staff whose major job duties include answering the telephone will receive more extensive training in TTY use.

Consumers will, as needed, have access to, and use of, each TTY.

c. RELAY SERVICES

At least one employee at each program location will be trained in the use of the telecommunication relay service from the provider of this service or a functionally equivalent expert from the [Massachusetts Commission for the Deaf and the Hard of Hearing](#).

d. INTERPRETERS/ Computer Access Realtime Translation (CART)

Upon being provided with reasonable prior notice of need, by a publicly announced deadline that is at least two weeks prior to the event or meeting, (ENTITY NAME) will provide interpreters for services and/or activities through the Massachusetts Commission for the Deaf and Hard of Hearing Interpreter Referral Service or Private Sources.



e. WRITTEN MATERIALS

All written materials provided to consumers will, upon reasonable prior notice of need, be made available in the alternative formats of large print, cassette tape, Braille, or, computer disk.

f. ASSISTIVE EQUIPMENT/TECHNOLOGY

Where necessary to provide for effective communication with people with disabilities (ENTITY NAME) will comply with all applicable Federal and State laws and regulations relative to the use and availability of auxiliary aids, equipment and services.

In addition, no arbitrary restrictions or limitations will be placed on the type or number of assisted equipment items, including service animals, that consumers may bring with them to (ENTITY NAME) 's program locations.

If a program uses televised information, the caption decoder feature will be utilized at all times. All movies and videos used in conjunction with consumer services or activities will contain captioning and descriptive video service. If such products are not available, alternative means of providing communication access, as previously described such as a sign language Interpreter or CART, will be provided when these items are used.

Where needed, Assistive Listening Devices will be used at meetings and during one-on-one counseling sessions and provided if, as determined through cooperative discussion with affected consumer(s), deemed to be the most practical means of attaining communication accessibility. As needed, visual and/or tactile signaling devices will be provided.

4. INFORMATION TECHNOLOGY

Where information technology is available to consumers or members of the public as part of any program, activity or service of (ENTITY NAME) that technology shall conform to accessibility standards established by the Massachusetts Information Technology Division (ITD).

5. TRANSPORTATION

(ENTITY NAME) does not routinely provide transportation for members of the public or recipients of its programs, activities and services. In those rare circumstances where transportation is provided for invited guests or members of policy making bodies (ENTITY NAME) will ensure that the transportation is accessible to people with disabilities through the use of an adequate number of accessible vehicles for this purpose.

If vehicles are owned and /or operated directly and an adequate number of accessible vehicles is not currently available to ensure equal receipt of service, outside accessible services will be engaged.





6. Contacts

“The only stupid question is the one you don’t ask.” – Anonymous

If you have questions about:	Contact:
<ul style="list-style-type: none"> • Legal Aspects of Disability 	Massachusetts Office on Disability Barbara E. Lybarger, Esq., General Counsel One Ashburton, Place, #1305, Boston, MA 02108 Barbara.Lybarger@state.ma.us 617-727-7440 Voice or TTY 617-727-0965 FAX 800-322-2020 Toll Free in Massachusetts www.mass.gov/mod
<ul style="list-style-type: none"> • Sign Language Interpreters • CART (computerized access real time translation) • Captioning • Loop or other amplification devices <p>Note: MCDHH recommends requests at least two (2) weeks in advance, because of high demand.</p> <p>If no requests for ASL interpreters are received 48 hours prior to a scheduled event, the ASL interpreter order can be cancelled through MCDHH without charge. In this case, the convening agency will not be charged. (If cancelled less than 48 hours before an event the requester is charged for the interpreters.)</p>	Massachusetts Commission for the Deaf and Hard of Hearing Jonathan O’Dell 150 Mt. Vernon Street, 5 th Floor Boston, MA 02125 Jonathan.ODell@state.ma.us 8:45 AM- 5:00 PM, Monday - Friday 617-740-1600 Voice 617-740-1700 TTY 617-740-1880 Fax 800-882-1155 Voice 800-530-7570 TTY www.mass.gov/mcd





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If you have questions about:	Contact:
<ul style="list-style-type: none"> • Remote CART (entails linking electronically with a service in a remote location.) 	HEAR Inc. 1-314-427-1113 Voice 1-314-427-0506 Fax info@hearink.com
<ul style="list-style-type: none"> • Braille • Audio tape • Large Print • Best Formats For Electronic Files 	Massachusetts Commission for the Blind Technology for the Blind Program John Oliveira, Program Director 48 Boylston St. Boston Ma 02116-4718 John.Oliveira@state.ma.us 617-727-5550 Voice 800-392-6450 (MA only) Voice 800-392-6556 (MA only) TTY 617-626-7685 Fax http://www.mass.gov/mcb
<ul style="list-style-type: none"> • Workplace accommodations for Executive Branch staff who have temporary or permanent disabilities 	Individual Executive Branch Entity's ADA/504 Coordinator For Executive Branch Entity contact list call: Office of Diversity and Equal Opportunity Sandra Borders, Director One Ashburton Place, Room 213 Boston, MA 02108 sandra.borders@state.ma.us 617-727-7441 Voice 617-727-6015 TTY 617-727-0568 Fax http://www.hrd.state.ma.us/agency_services/AS_Manage_Workforce/odeo/odeo.htm
<ul style="list-style-type: none"> • Security 	Massachusetts Bureau of State Office Buildings Michael Courtney State House Boston, MA 02133 Michael.Courtney@state.ma.us 617-727-1100 Voice www.mass.gov/bsb





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II. ACCESSIBILITY AND THE EXECUTIVE BRANCH

This chapter is divided into twelve sections.

- **Program Accessibility**
- **Considerations for Physical Access**
- **Considerations for Communication Access**
- **Considerations for Information Access**
- **Considerations for Staff Activities**
- **Considerations for Service Animals**
- **Considerations for Transportation**
- **Considerations for Safety**
- **Considerations for Contracting and Acquisitions**
- **Considerations for Technology Access**
- **Licensing, Certification and Testing**
- **Eligibility Standards, Criteria and Methods of Administration**





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For purposes of this Handbook, accessibility refers to the ability of people with disabilities to “participate in, and enjoy the benefits of, programs or activities conducted by the Executive Branch.”³ For general information on disabilities and access, contact the Massachusetts Office on Disability.⁴

1. Program Accessibility

An Executive Branch Entity needs to ensure its programs are accessible to people with disabilities. Although it is our goal that all buildings and facilities one day be fully accessible to all, this is not necessarily required of each facility or part of a facility today. “Program Accessibility” is the current standard. It may be achieved by a number of methods. Executive Branch Entities must ensure that all of their programs, services, and activities, when viewed in their entirety, are accessible to people with disabilities.

In most situations, providing physical access to facilities through altering an existing facility, or using another facility, is the preferred method of providing program accessibility. However, the Executive Branch Entity may pursue alternatives to structural changes in order to achieve program accessibility. For example, where the second-floor office of a public welfare agency may be entered only by climbing a flight of stairs, an individual with a mobility impairment seeking information about welfare benefits can be served in an accessible ground floor location or in another accessible building.

However, it is the responsibility of the Executive Branch Entity to ensure the alternate location is not only architecturally accessible but that it affords the same level of privacy or amenities as the primary location.

Similarly, an Executive Branch Entity may move a public hearing from an inaccessible building to a building that is readily accessible. When choosing among available methods of providing program accessibility, an Executive Branch Entity must give priority to those methods that offer services, programs, and activities in the most integrated setting appropriate.

Executive Branch Entities sometimes fail to ensure that the whole range of its programs, activities, facilities, buildings, and services meet the Program Accessibility Requirements. When this happens, people with disabilities are unable to participate in the activities of government, such as public meetings, public functions, and access to the various programs and services the entity offers. If a building such as a courthouse is inaccessible because doorways are too narrow, restroom facilities are inaccessible, and steps are the only way to get to all or portions of a facility, people with disabilities who use wheelchairs are unable to participate in jury duty, hearings, court cases or access other services.

³ 47 C.F.R. § 1.1803.

⁴ For specific contact names, phone numbers, and e-mail addresses, see page 21 of this *Handbook*.





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Program access is intended to remove physical barriers to services, programs, and activities, but it generally does not require that a government make each facility, or each part of a facility, accessible. For example, each restroom in a facility need not be made accessible. However, signage directing people with disabilities to the accessible features and spaces in a facility should be provided. Program accessibility may be achieved in a variety of ways.

Executive Branch Entities may choose to make structural changes to existing facilities to achieve access. But Executive Branch Entities can also pursue alternatives to structural changes to achieve program accessibility. For example, Executive Branch Entities can move public meetings to accessible buildings and can relocate services for individuals with disabilities to accessible levels or parts of buildings. When choosing between possible methods of program accessibility, however, Executive Branch Entities must give priority to the choices that offer services, programs, and activities in the most integrated setting appropriate. In addition, all newly constructed facilities must be fully accessible to people with disabilities.⁵

⁵ 28 C.F.R. §§ 35.149, 35.150, 35.151, 35.163.





2. Considerations for Physical Access

BUILDINGS / ROOMS / HALLWAYS

When choosing a site, consideration must be given to ensure people with mobility impairments are generally able to move throughout the building as they wish. In most cases, state buildings adhere to federal and Massachusetts standards established by the U.S. Architectural and Transportation Barriers Compliance Board (U.S. Access Board)⁶ and the Massachusetts Architectural Access Board (MAAB).⁷ These standards are to be applied during the design, construction, and alteration of buildings and facilities.

Beyond the new construction design elements of access, there are practical, everyday decisions that Executive Branch staff can make to assure optimal physical access to Executive Branch programs and activities. Among the considerations that should be kept in mind are the following:

- Check to see if adjacent parking lots provide handicapped parking and that there is a clear, unimpeded path of travel from the parking (or the street) to the building.
- Keep aisles and doorways clear. Do not block pathways with boxes, furniture or other obstacles. Even a building that is constructed compliant with building codes can be made inaccessible by placing items in spaces that were not intended to be used as storage.
- Check to determine if the building provides signage that is clear and unambiguous, as well as contains high contrast, raised letters and Braille.
- When arranging meeting rooms or seating areas, be sure to allow aisles between tables and/or chairs that are wide enough to permit easy passage for wheelchairs, scooters, and people using other mobility aids.
- When placing chairs in pre-arranged seating arrangements, include gaps in the seating plan to allow space for people who use wheelchairs or scooters.
- If accommodations that require user activation are installed in the building -- for example, chair lifts that require keys to operate them -- make sure that the key or other means of activation is easily available for users with disabilities. It does little good to have a lift installed if the key that is required to operate it is in an office on the other side of the lift! Keep in mind that lifts and other similar aids must be easily accessible in both directions, i.e., "coming" and "going."
- Do not assume that all people with similar disabilities will want identical accommodations. If you are unsure of what to do, ask the person with a disability for guidance.

⁶ The Access Board, Accessibility Guidelines and Standards are available at <http://www.access-board.gov/gs.htm> .

⁷ The Massachusetts Architectural Access Code is available at: [521 C.M.R. §1.0, et seq.](#)





- **Parking and Drop-Off Space**

An entity is not required to provide parking unless it offers it to everyone. However, parking is a highly desirable access feature of any site. A passenger drop off area is also a highly desirable site feature, particularly when no accessible parking is available.

When parking can be provided, accessible parking spaces, including van accessible spaces, must be located on the shortest accessible route from adjacent parking to the accessible entrance of the building or facility. Accessible parking spaces and the required accessible route should be located where individuals with disabilities do not have to cross a vehicular lane.

When parking cannot be located immediately adjacent to a building and the accessible route must cross a vehicular route, then it is recommended that a marked crossing must be used where the accessible route crosses the vehicular route. In facilities that have multiple accessible entrances with adjacent parking spaces, the accessible parking spaces must be dispersed.



- **Entrances and Paths of Travel**

Once one reaches a building or facility, there needs to be a level path of travel to get into and through the building or facility. Entrances need to be wide enough for a wheelchair to pass through and heavy doors need to be adjusted or equipped with automatic openers to allow people with disabilities to pass.

- **Interior Layout**

There are extensive regulations available from the [Massachusetts Architectural Access Board \(AAB\)](#) and the [U.S. Access Board](#) detailing the particulars of what makes a space accessible. These regulations contain a wealth of information about everything from counter and stair heights, to bathroom dimensions.

Even when space is designed with accessibility in mind, Executive Branch Entities must regularly check their space for obstacles, such as boxes and extraneous furniture that tend to creep into hallways, meeting rooms and other common spaces over time.



NEW CONSTRUCTION AND ALTERATIONS

The Americans with Disabilities Act requires that all facilities designed, constructed, or altered by, on behalf of, or for the use of an Executive Branch Entity must be readily accessible and usable by individuals with disabilities, if the construction or alteration was begun after January 26, 1992. However, Massachusetts has had a state building code that has required accessibility be provided in publicly funded buildings since 1968, and in all buildings open to the public since 1975.

What is "readily accessible and usable?" This means that the facility must be designed, constructed, or altered in strict compliance with particular design standards. Executive Branch Entities must use the Americans with Disabilities Act Accessibility Standards for Buildings and Facilities (ADAAG) [28 C.F.R. §36, Appendix A](#), and the Massachusetts Architectural Access Board regulations ([521 C.M.R.](#)) when designing projects. In areas where the two regulations differ, the standard that provides the most access for people with disabilities should be used.





HISTORIC PRESERVATION PROGRAMS

Special program accessibility requirements and limitations apply to historic preservation programs.⁸ Historic preservation programs are programs conducted by an Executive Branch Entity that have preservation of historic properties as a primary purpose. An historic property is a property that is listed or eligible for listing in the National Register of Historic Places or a property designated as historic under the [Massachusetts Historical Commission](#).

In achieving program accessibility in historic preservation programs, an Executive Branch Entity must give priority to methods that provide physical access to individuals with disabilities. Physical access is particularly important in an historic preservation program, because a primary benefit of the program is uniquely the experience of the historic property itself.

An Executive Branch Entity is not required to take any action that would threaten or destroy the historic significance of an historic property. In cases where physical access cannot be provided because of either this special limitation, or because an undue financial burden or fundamental alteration would result, alternative measures to achieve program accessibility must be undertaken. Those measures might include for example videos of upper story rooms, closed circuit television of activities taking place in inaccessible areas, etc.

Note: This special limitation does not apply to programs that are not historic preservation programs, but just happen to be located in historic properties.

⁸ US DOJ Technical Assistance Manual, § II-6.0000.





CURB CUTS

Curb cuts are sloped areas that create a smooth transition from sidewalks to streets or roads. Curb cuts allow people with mobility impairments to gain access to the sidewalks and to pass through center islands in streets.

Without the required curb cuts, sidewalk travel in developed areas is difficult, and in some cases impossible for people who use wheelchairs, scooters, and other mobility aids. Improperly designed curb cuts or the lack of curb cuts can be dangerous, since individuals may be forced to travel in streets and roadways.

- **New Construction**

When streets and roads are newly built or altered, they must have curb cuts wherever there are curbs or other barriers to entry onto a pedestrian walkway or cross walk. Likewise, when new sidewalks or walkways are built or altered, they must contain curb cuts or sloped areas wherever they intersect with streets or roads.

While resurfacing a street or sidewalk is considered an alteration for these purposes, filling in potholes alone will not trigger the alterations requirements.

- **Existing Structures**

At existing roads and sidewalks that have not been altered, governments may choose to construct curb cuts at every point where a pedestrian walkway intersects a curb, but they are not necessarily required to do so.

- **Curb Cut Specifications**

The Massachusetts Architectural Access Board specifications for curb cuts are found in 521 C.M.R. §21, on the web at http://www.mass.gov/Eeops/docs/dps/aab_regs/521021.doc.



3. Considerations for Communication Access

In our complex society, effective communication requires at least vision, hearing, speech, thought processing and gross and fine manual skills. About 10 percent of working age adults in the Massachusetts population have disabilities that significantly interfere with their ability to communicate. Executive Branch Entities need to take affirmative steps to ensure they are prepared to address a variety of communication issues generally, and are aware of the need to provide accommodation through the use of a variety of aids and services designed to compensate for communication limitations.

As Executive Branch Entities, we must spend the time to identify and address the communication needs of people with disabilities. A little advance planning goes a long way in making it possible to comply with this standard in a prompt and effective way.

HOW DOES ONE COMMUNICATE EFFECTIVELY?

Effective Communication is based on mutual understanding and comprehension of the message being conveyed and how it is being conveyed. While there are many different ways of achieving this goal there are some general guidelines that should be followed:

- First, ask the individual what generally works best for them. Sometimes, it is as simple as speaking more clearly or raising your voice slightly.
- Second, use tools and resources at hand to begin the conversation. For example, if the individual is deaf and you need to convey a short message in the absence of a sign language interpreter, try writing notes. This can be done with a pad and pen, or on a computer where available. Keep in mind that not all deaf people are as skilled in written English as the average hearing person.





SPECIAL CONSIDERATIONS BY TYPE OF COMMUNICATION

- **Telephone**

Where an Executive Branch Entity communicates by telephone with applicants and beneficiaries, Telecommunication Devices for the Deaf (TTY) or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

Other examples of telecommunication systems are the Telecommunication Relay Service which allows TTY users to communicate with those who don't have a TTY and Video Relay services which allow direct sign language communication on the caller's part which is then translated into spoken English for the benefit of the hearing person on the other end of the call. For more information about communication options for people who are deaf or hard of hearing, contact the [Mass. Commission for the Deaf and Hard of Hearing](#).

- **TTY**

TTYs (TeleTypewriter) are sometimes also called TDD's (Telecommunications Devices for the Deaf), though the preferred term is still TTY. TTYs include a keyboard, text display, and sometimes a printer. TTYs allow individuals to make and receive telephone calls in realtime using typed, 2-way communication.

Distribution of TTYs within the Executive Branch – Minimum standards

- Each Office within the Executive Branch should have a working TTY with staff trained and available to answer calls.
- TTY answering machines should be programmed with messages similar to those used on voice mail systems.
- TTYs should be checked regularly for messages, with responses generated promptly. Specific individuals should be charged with this task and an appropriate back-up person designated.

TTY Telephone numbers

- When contact telephone numbers for the Executive Branch are disseminated, both voice and TTY telephone numbers should be included.
- If an individual, branch, or division designated as the Executive Branch's point of contact does not have a TTY number, then the TTY number of their office or division must be used.



- **Telecommunications Relay Service**

The Relay Service (also called Relay, Relay Service, or Relay Center) allows people who are deaf, hard of hearing, or who have speech disabilities to use the telephone. Relay Service is available 24 hours a day. It provides the link between callers who use assistive devices such as TTYs, and callers who do not have such equipment. It also serves as an interface between people who have speech disabilities and those who have difficulty understanding them.

To contact the Relay Service, **dial 711** anywhere in the United States (**or 1-800-439-0183** if your central telephone system does not recognize the 711 number). The call will be connected to an operator. The Relay Service will ask for the destination phone number. Once this information has been provided, the call will be placed. When the connection is completed, the operator will relay information between the caller and the call recipient.

Relay Service calls can be of several types:

Telecommunications Relay Service TTY Calls

TTY users can contact the Relay Service to make calls to people who do not have a TTY. Likewise, callers who use standard telephones can contact the Relay Service to make calls to TTY users. When using the Relay, the TTY user types a message to the operator who then reads it to the person using a standard telephone. When the person using a standard telephone responds, the operator types the message to the TTY user.

Voice Carry Over (VCO)

With Voice Carry Over, a caller who can speak intelligibly but who cannot hear conversation on the telephone (as is often the case, for example, with hard of hearing people), is able to speak directly with the person using a standard telephone on the other end of the line. The operator then types the standard telephone user's comments back to the Voice Carry Over user via TTY. Either Voice Carry Over users or standard telephone users can initiate and receive Voice Carry Over calls.

Hearing Carry Over

Hearing Carry Over allows people who can hear but who cannot speak clearly (for example, people who have had severe strokes) to use their hearing via a standard telephone while using a TTY to type their comments. Hearing carry over users type their comments to the operator who reads them to the person using a standard telephone on the other end of the line. The standard telephone user then speaks directly to the Hearing carry over user. Either Hearing Carry Over users or standard telephone users can initiate and receive Hearing Carry Over.



Speech to Speech

Speech To Speech services are used by people who have speech disabilities and are neither deaf nor hard of hearing (for example, people who have cerebral palsy). With Speech To Speech, operators who are trained to understand people who have speech disabilities, listen to the caller and then repeat the message clearly to the person being called. The person with the speech disability can be either the initiator or the recipient of a Speech To Speech call. The speech to Speech Operator can be reached at **877-735-1007**.

Internet Protocol Relay

Internet Protocol (IP) Relay calls are initiated over the internet. To locate a list of Internet Protocol Relay providers, use a standard internet search engine and search for "IP Relay." To make an Internet Protocol Relay call, follow the directions on the internet site you select. At this time, Internet Protocol Relay can only be used to make calls from an internet connection to a standard telephone. Calls cannot be made in reverse -- voice callers using a standard telephone or callers using Voice Carry Over, Hearing Carry Over or Speech to Speech cannot initiate an Internet Protocol Relay call.

Video Relay Service

Video Relay Service allows sign language users to send and receive messages in American Sign Language (ASL). Currently, Video Relay Service calls must be initiated by the sign language user who must also have the appropriate video equipment and high speed connectivity, e.g., cable modem, DSL (Digital Subscriber Line), or ISDN (Integrated Services Digital Network). The sign language user signs to an operator who is also a qualified sign language interpreter. The operator interprets the message into spoken English for the standard telephone user who then responds in spoken English. The operator listens to the spoken message and interprets it into sign language for the originating caller. At this time Video Relay Service is an optional service.



- **Voice-Driven Telephone Menu Systems**

For both TTY and Relay Users, these systems are nearly impassable barriers. Their use should be kept to a minimum.

- **Telephone Emergency Services**

Because of the need for speed and accuracy in an emergency, telephone emergency services, including 911 services, must provide direct access to individuals who use TTY's and computer modems. The statewide Emergency Telecommunications Board makes sure these services are accessible in Massachusetts.

- **Information and Signage**

Make sure that interested persons, including persons with impaired vision or hearing, can obtain information about the existence and location of accessible services, activities, and facilities.

Provide signs at all inaccessible entrances to each facility, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.





- **Internet and Other Computer Based Services**

Most computer based services can be delivered in ways that are accessible to everyone. Consult www.mass.gov/accessibility for information about how to ensure web sites and other applications are accessible to people with disabilities. This applies to computers made available to the public. However, it does not require dedicated computers be made available to particular individuals at locations other than those available to everyone else.

- **What Aids or Services Are Necessary?**

Executive Branch Entities are obliged to provide appropriate auxiliary aids and services, where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of a service, program, or activity conducted by an Executive Branch Entity.

In determining what type of auxiliary aid or service is necessary, an Executive Branch Entity shall first discuss with the individual his/her communications needs. If more than one effective method is available, primary consideration must be given to the preference of the individual with the disability.

If subject matter expertise is needed, staff at the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) can provide advice on which auxiliary aids and services would be most effective and cost efficient in a given situation. For MCDHH contact information, see the Contacts Chart at the end of Chapter I for Contact Information.



4. Considerations for Information Access

FORMS / PUBLIC INFORMATION / COMPLAINTS / MEDIA, ETC.

- **Choose a font style and size that is easy to read.**⁹ When developing forms, publications, press releases, solicitations for consumer input, or other information gathering or disseminating tools and processes, be sure to consider the accessibility of both the content and the medium you elect to use.

There are no hard and fast rules guiding the selection of font styles and sizes. In fact, publication manuals and guidelines vary dramatically in their rules and preferences. There is, however, some general agreement on the following principles:

- For both print documents and electronic displays, sans serif fonts are easier to read. Sans serif fonts lack the little “feet” attached to each letter; Arial, the font used in this manual, is an example of a sans serif font.¹⁰

This illustrates a serif font.

- For large print, the size of type required will vary with the needs of the reader. For generically produced large print, a font size of 16 to 18 is preferred.¹¹

This illustrates large print.

- Use high contrast between colors when possible. It may be difficult for people with low vision to see information that is presented in colors that do not contrast strongly. By contrast we mean the degree of difference between the background and the text on a page. Although there is great variety in acceptable color choices, most basically, one should be dark, and the other light.

⁹ For additional guidelines, see, NASA Glenn Research Center: Usability Research Team, Design Guidelines, “Text, Fonts and Readability,” <http://www.grc.nasa.gov/WWW/usability/textfontcss.html> (visited 11/19/02).

¹⁰ *Id.*

¹¹ Lighthouse International, Vision Resources, Low Vision, “Making Text Visible: Designing for People with Partial Sight.” http://www.lighthouse.org/print_leg.htm (visited 11/18/02).





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- Remember that approximately 7% of all males have some form of red-green colorblindness; this condition only affects 0.4% of women. For many people with this disorder, red and green look essentially alike.¹² Keep this in mind when designing color documents.¹³
- Remember to include an accessibility statement in any documents you disseminate. For further guidance, see the “Disseminating News Releases, Public Notices, Texts, and Other Documents” Chapter III, page 5, of this Handbook.
- Existing documents that are not in accessible format for either the public (e.g., those mentioned above) or staff (e.g., personnel records, standardized forms), must be made accessible for people with disabilities upon request.

If a person with a disability contacts you asking for assistance with Executive Branch information or resources, help them to the best of your ability. If you find that you are unable to satisfy their need, ask them to contact: The entity’s ADA/504 Coordinator or contact the Executive Branch’s ADA/504 Coordinating Agency, the Massachusetts Office on Disability, at 617-727-7440, or by email at barbara.lybarger@state.ma.us.¹⁴

¹² *Seeing, Hearing and Smelling the World: A Report from the Howard Hughes Medical Institute*, “Breaking the Code of Color: Color Blindness: More Prevalent Among Males,” <http://www.hhmi.org/senses/b130.html> (visited 11/1/02).

¹³ Lighthouse International, Vision Resources, Low Vision, “Effective Color Contrast: Designing for People with Partial Sight and Color Deficiencies,” (visited 11/18/02).

¹⁴ For specific contact names, phone numbers, and e-mail addresses, see the Contacts table at the end of Chapter I.





o Braille

Braille¹⁵ is a series of raised dots that can be read with the fingers by people who are blind or whose eyesight is not sufficient for reading printed material. Teachers, parents, and others who are not visually impaired ordinarily read Braille with their eyes. Braille is not a language. Rather, it is a code by which languages such as English or Spanish may be written and read.

What Does Braille Look Like?

Braille symbols are formed within units of space known as Braille cells. A full Braille cell consists of six raised dots arranged in two parallel columns each having three dots. The dot positions are identified by numbers from one through six. Sixty-four combinations are possible using one or more of these six dots. A single cell can be used to represent an alphabet letter, number, punctuation mark, or even a whole word.

How Is Braille Written?

When every letter of every word is expressed in Braille, it is referred to as Grade 1 Braille. Very few books or other reading material are transcribed in Grade 1 Braille. However, many newly blinded adults find this useful for labeling personal or kitchen items.

The system used for reproducing most textbooks and publications is known as Grade 2 Braille. In this system cells are used individually or in combination with others to form a variety of contractions or whole words. For example, in Grade 1 Braille the phrase *you like him* requires twelve cell spaces. It would look like this:

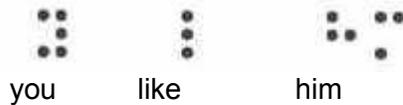


¹⁵ Excerpted with compiler edits from American Foundation for the Blind, Information Center, "What is Braille," http://www.afb.org/info_document_view.asp?documentid=1248 (visited 11/1/02).





If written in Grade 2 Braille, this same phrase would take only six cell spaces to write. This is because the letters *y* and *l* are also used for the whole words *you* and *like* respectively. Likewise, the word *him* is formed by combining the letters *h* and *m*. It would look like this:



There are 189 different letter contractions and 76 short-form words used in Grade 2 Braille. These “short cuts” are used to reduce the volume of paper needed for reproducing books in Braille and to make the reading process easier.

o Video Description

Video Description^{16,17} uses spoken explanations and descriptions of visual elements that are inserted into a television or video program without interfering with the sounds and dialogue that are a regular part of the program. This service is available on a limited basis on certain cable television channels, on Public Broadcasting Service (PBS) television shows, commercial broadcast stations, and on videotapes for purchase or rental.

¹⁶ Excerpted with compiler additions from American Foundation for the Blind, Information Center, “Video Description,” http://www.afb.org/info_document_view.asp?documentid=944 (visited 11/1/02).

¹⁷ “Audio Description” is another term often used for this service.



○ Assistive Listening Devices

Assistive Listening Devices¹⁸ increase the volume of a desired sound, such as the soundtrack of a movie or the voice of a tour guide, without increasing the loudness of background noises. Some Assistive Listening Devices are also used to convey audio descriptions to visitors with vision impairments

It is estimated that one out of every 10 people in the U.S. has a significant hearing loss, ranging from 25 dB (mild) to 90 dB (severe). About half of them are older adults. Among people with hearing loss, some wear hearing aids or use other devices to enhance residual hearing, and may also read lips.

Assistive Listening Devices come in many configurations. Essentially, the function of an Assistive Listening Device is to supplement residual hearing by targeted amplification. The **transmitter** picks up the desired sound and converts it to a signal which it then sends out. The **receiver**, worn by individual with a hearing loss, picks up the signal and transmits it to the user. Several receivers can pick up the signal from a single transmitter.

There are several types of Assistive Listening Device systems:

- **Infrared systems** transmit sounds via light waves to users wearing receivers. The receiver must be in the transmitter's line of sight to function properly. This limits where listeners with receivers can be located, but it also prevents spillover of sound into other areas and ensures privacy. Sunlight and bright incandescent light interfere with the transmitter signal, so an IR system may not be a good choice for outdoors. IR systems are often used in movies, conferences, and live performances.
- **FM systems** transmit sounds via radio waves. With this system, the speaker wears a compact microphone and transmitter while the listener has a portable receiver with headphones, ear buds or a necklace. FM systems are commonly used when the speaker is required to move around. This system is not affected by light, but may experience radio interference from nearby radio stations or strong electromagnetic fields.

It is important to select a system based on its intended use. Where a single channel system is more economical, and may be practical for a one-on-one conversation, the purchase of a multi-channel system allows for greater flexibility, such as the use of different transmitters and receivers in adjacent rooms without any danger of "slippage." The same system can serve multiple uses (e.g. translations, audio descriptions, etc.) because it can transmit and receive multiple frequencies.

¹⁸ Excerpted with compiler edits from Association of Science-Technology Centers, Accessible Practices, Best Practices, "Live and Recorded Media: Assistive Listening Devices," <http://www.astc.org/resource/access/medald.htm> (visited 11/1/02).





○ Sign Language Interpreters

When using an interpreter...

- Speak clearly in a normal tone and at a natural pace; do not exaggerate lip movements.
- Make sure there is adequate lighting. Avoid lighting that places a shadow on the interpreter or that makes it difficult to see the interpreter's hands and face – for example, in front of a window or with bright or glaring light placed behind the interpreter.
- If possible, position the interpreter so that the person who is deaf or hard of hearing can see both the interpreter and the speaker.
- If speakers during the event are likely to use acronyms, jargon, or vocabulary peculiar to a specific field, it is helpful to provide the interpreter with a list of such terms and their definitions in advance of the event.
- Speak directly to the person who is deaf or hard of hearing and avoid phrases like, “tell him” or “ask her.”
- Maintain eye contact with the person who is deaf or hard of hearing, not with the interpreter. It may help to remember that the conversation is with the person who is deaf or hard of hearing, not with the interpreter. This may seem difficult at first because it is the interpreter's voice that is heard and the person who is deaf or hard of hearing will be shifting his gaze between the speaker and the interpreter. Keep in mind that the person who is deaf or hard of hearing must look at the interpreter in order to understand what is being said.
- Realize that interpreters are speaking for the person who is deaf or hard of hearing. When interpreters say, “I” or “me,” they are speaking as the person who is deaf or hard of hearing, not as themselves.
- Do not attempt to have private conversations with a working interpreter. It is the job of the interpreter to convey everything that is said or heard, including efforts at engaging the interpreter's attention.
- Situations requiring one or more hours of interpreting may call for more than one interpreter. A team of two interpreters helps reduce the possibility of errors and lessens the likelihood of injury due to the stressful repetitive motions required by interpreting. When interpreters work as a team, they will generally switch roles every twenty to thirty minutes.
- If there is any question as to the best arrangements for a particular situation, ask the interpreters and the people who are deaf or hard of hearing. They are the experts on what will work best for them.



○ **CART (Computer Access Real time Translation)**

Computer Access Real time Translation (CART) ¹⁹ is a verbatim speech-to-text translation service for people who need communication access. Unlike computerized note taking or abbreviation systems, which summarize information for consumers, CART provides a complete translation of all spoken words and environmental sounds, empowering consumers to decide for themselves what information is important to them. CART consumers include people with hearing loss; individuals with cognitive or motor challenges; anyone desiring to improve reading/language skills; and those with other communication barriers. The Americans with Disabilities Act (ADA) specifically recognizes CART as an assistive technology that affords effective communication access.

How it's done

A CART writer uses a steno machine, notebook computer, and real time software to render instant speech-to-text translation on a computer monitor or other display for the benefit of an individual consumer or larger group in a number of settings: classrooms; business, government, and educational functions; courtrooms; religious, civic, cultural, recreation, or entertainment events. A CART writer is sensitive to the varying needs of individual consumers and has had training in conveying a speaker's message, complete with environmental cues. This expertise distinguishes a CART writer from a court reporter in a traditional litigation setting.

Besides steno writers, there is another form of CART which is sometimes referred to as "voice writing." A trained voice writer will listen to everything being said in a given environment and repeat it into a special pickup microphone connected to voice recognition speech-to-text software. Since this system is calibrated to recognize the voice writer's speech pattern, this system achieves a higher accuracy rate than random individuals speaking into the same software.

CART in either of the methods described above can be delivered remotely by off site CART writers who listen in on the conversation through an open telephone line and transcribe what is said to a web page, which is accessible to the consumer in real time. This is tremendously helpful when local CART writers are not available.

¹⁹ Excerpted with compiler additions from the National Court Reporters Association, *CART writer's Manual*, <http://cart.ncraonline.org/manual/index.html> (visited 11/1/02).





○ Captioning

Captioning is the transcription and subsequent text display of dialog and other auditory information, such as on- and off-screen sound effects, music, and laughter. Captioning is used in many places including videos and films, live performances and demonstrations, lectures, web sites, and television.

Captioning benefits are not limited to people who are deaf or hard of hearing. In loud, crowded venues as well as hushed, quiet settings, captioned video allows sighted visitors to read what they cannot hear. Captions also benefit new readers and people who are learning English as a second language.²⁰

There are two categories of captions:

CLOSED captions are captions that are hidden in the video signal and are invisible without a special decoder. They are hidden in an area that is called line 21 of the vertical blanking interval (VBI).

OPEN captions are captions that have been decoded, so they have become an integral part of the television picture, like subtitles in a movie. Open captions cannot be turned off.

²⁰ First and second paragraphs excerpted with compiler additions from Association of Science-Technology Centers, Accessible Practices, Best Practices, "Live and Recorded Media: Captioning," <http://www.astc.org/resource/access/medcaption.htm> (visited 11/2/02).





5. Considerations for Staff Activities

Office parties / Holiday celebrations / etc.

Remember that people with disabilities are also members of the Executive Branch staff. All programs or activities should be planned with an eye to ensuring access for anyone who would like to attend.

- When disseminating Executive Branch generated notices, distributing flyers, or making posters, be sure to include an accessibility statement. Remember that the “host” of the event assumes responsibility for arranging for accommodations for people with disabilities. For further guidance, see Chapter III “Meetings, Documents, Training” section of this Handbook.
- When broadcast messages are sent via voice mail system, make sure the information is shared with staff members who are deaf or hard of hearing.





6. Considerations for Service Animal Users

Both the Americans with Disabilities Act and MGL c. 272 §§ 92A and 98A afford protections to people who use service animals. Service animals are animals that have been trained to perform a specific task for a person with a disability. Most people are familiar with people who are blind who use guide dogs, but more and more people who have other disabilities are using service animals – such as helping to pull wheelchairs, retrieving dropped items, alerting someone who is hearing impaired or protecting someone who is about to have a seizure.

A few key points to keep in mind are:

- Service animals are not pets.
- People with disabilities who use guide or service dogs can go everywhere that people who are not accompanied by dogs are entitled.
- It is against the law to deny people with disabilities, who use guide or service animals, entry or service.
- Allergies or another person's fear of animals are generally not valid reasons for denying access to a person using a service animal.
- Service animals are not required to be licensed or certified as such.
- People with disabilities who use service animals cannot be charged extra fees.
- Users of service animals are obliged to keep the animal under control at all times and are responsible for taking care of the animal's needs.



7. Considerations for Transportation

- **General**

Although getting to government offices is often a challenge for people with disabilities, an Executive Branch Entity is only obliged to provide transportation to a particular program, activity or service for people with disabilities in two types of situations:

1. When it provides transportation to everyone, regardless of disability; and
2. When it is obliged to provide transportation for a particular person as an accommodation to his or her disability.

This applies both when the transportation is provided directly by the Executive Branch Entity and when the entity pays for transportation for consumers, board members or others participating in a program, activity or service. When arrangements for the transportation are made by the Executive Branch Entity, the individual being transported should be asked if a lift equipped vehicle is needed, and if not, does the vehicle need any other special equipment to allow him or her to get into and out of the vehicle.

- **Transportation Services Operated By An Executive Branch Entity**

The remainder of this guidance deals with those limited situations when an Executive Branch Entity operates a transportation service specific to its own programs, activities and services, such as a college campus shuttle service that carries students, faculty and staff between various places on or near a college campus. The purpose of the shuttle is to get people who participate in the process of education to classes and related activities only, not to transport the general public anywhere they might want to go.

Note: The following only applies where the transportation is incidental to some other primary program, such as a campus shuttle service. It does not apply to public transportation systems, where the transportation is itself the primary service.





- **Vehicles Purchased or Leased by an Executive Branch Entity**

There are special rules for new vehicles purchased or leased:

- **Fixed Route Systems**

A fixed route system is a transit system that operates on a particular path, usually at specific times and during specific hours. An example is the college campus shuttle mentioned above. The path the shuttle takes is the same all the time and in many cases there are specific times of operation and scheduled times when the shuttle is supposed to be at a particular place along the route.

If and when an Executive Branch Entity that operates a fixed route system purchases or leases new vehicles, the vehicles must be readily accessible to, and usable by individuals with disabilities.²¹ However, it is not required to offer paratransit services.

- **Demand Responsive Systems**

A demand response system is one where an individual requests a ride at a specific time from one point to another. An example is the Council on Aging van service for things such as doctors' appointments.

An Executive Branch Entity that operates such a system and purchases or leases new vehicles must either:

1. Ensure that the vehicle is readily accessible to and usable by people with disabilities, including individuals who use wheelchairs, or
2. Ensure that the system, when viewed as a whole, provides a level of service to people with disabilities that is equal to the level it provides to other people.²²

An Executive Branch Entity is not specifically required to install a lift in a particular existing vehicle, nor is it specifically required to provide a full scale "paratransit" service, like those required of public transportation authorities such as the Ride by the Massachusetts Bay Transportation Authority (MBTA) or Dial-a-BAT by the Brockton Area Transit Authority.

Note: Although not required for any particular existing vehicle already owned by the entity, this does not prevent an entity from buying in extra, or operating a "paratransit-like" system, if that Executive Branch Entity determined that one or both of those approaches is the most reasonable way to ensure equal opportunity for those served by the entity.

²¹ 42 U.S.C. §12142(a)

²² 42 U.S.C. §12144



8. Considerations for Safety

Executive Branch Entities can use legitimate safety criteria, which are necessary for safe operations. Safety requirements must be based on actual risks, not on mere speculation, stereotypes, or generalizations about people with disabilities.

Building Evacuation

- Remember that people who are deaf or hard of hearing generally do not benefit from public address systems or verbal instructions from security officers. Rumors or instructions passed by word of mouth are also likely to be missed by a person who is deaf or hard of hearing. If someone in your area is deaf or hard of hearing, make sure that you pass along information about emergency situations as they occur. Even in the absence of a sign language interpreter, essential safety information can often be conveyed quickly and concisely by using paper and pen or mime and gestures.
- Remember that people who are blind cannot see you. Before attempting to help people who are blind, introduce yourself and ask them if they would like assistance. If they accept your offer of help, allow them to take your arm; do not push or drag them along with you. If you are uncertain about what to do, ask the person how they would like to proceed.
- People who have low vision have varying levels of sight -- some may be able to discern shapes, others may only be able to identify areas that are light or dark, still others may have tunnel vision, or may be able to see only in areas with bright lighting. Before helping someone who appears to have vision problems, ask if they would like help. If so, ask how they would like to proceed.
- There are established procedures for evacuating people with disabilities. For details, you should consult the *Emergency Evacuation Procedures* document on the Executive Branch on the intranet at (http://www.mass.gov/bsb/m_evac_plan.htm#mepi). You should also contact the Evacuation Coordinator for your Executive Branch Entity about the specifics of your Executive Branch Entity's evacuation plan.





Security Issues

When giving directions in emergency or high stress situations, do not assume that people who are non-responsive are being uncooperative.

- People who are deaf or hard of hearing may be unable to hear spoken instructions. Even people who have substantial residual hearing may have difficulty hearing instructions coming from behind them or orders given in areas with background noise such as fire alarms or the chatter from crowds of people.
- People who are blind or have low vision may not see gestures or other visual cues indicating where they should go or what they should do.

When going through standard security screening procedures, it is helpful to inform people who are blind of the process they are about to experience. Give verbal cues as to where to place items for inspection and how to pass through the metal detectors.

Remember that some people with disabilities have assistive devices that are not easily removed. Some devices, such as cochlear implants to improve hearing or metal rods to strengthen bones, are surgically implanted and cannot be taken off or detached. Be aware that such devices may set off metal detectors. Some devices, such as internally implanted heart defibrillators, have delicate computer setting that may be disturbed by screening devices. Be prepared to use courtesy and good judgment in dealing with such situations.



9. Considerations for Contracting And Acquisitions

All of the Executive Branch's programs and activities must be accessible to people with disabilities. This includes programs and activities offered by the Executive Branch through contracts or other arrangements.²³ The Commonwealth Standard Form Contract and Instructions require compliance with all federal and state laws, and they specifically mention several disability rights laws, such as the ADA and Section 504 of the Rehabilitation Act, Massachusetts Amendment Article CXIV and Chapter 151.

Because the goods and services for which Executive Branch Entities contracts vary widely, it is impossible to cover all possible contingencies in a single standard form contract.²⁴ Entities must ensure that "statements of work" for the provision of programs or activities are carefully written to ensure that access for people with disabilities is explicitly required.

In addition, Executive Branch Entities must ensure that their contracting practices do not discriminate against possible vendors with disabilities, and that all materials related to the request are available in formats that are accessible.

²³ 47 C.F.R. § 1.1830(b)(3)-(6).

²⁴ See for example, supplemental contract language is available from the Information Technology Division, at www.mass.gov/accessibility.





10. Considerations for Technology Access

Many people with disabilities use assistive technology that enable them to use computers. Some assistive technology involves separate computer programs or devices, such as screen readers, text enlargement software, and computer programs that enable people to control the computer with their voice. Other assistive technology is built into computer operating systems. For example, basic accessibility features in computer operating systems enable some people with low vision to see computer displays by simply adjusting color schemes, contrast settings, and font sizes. Operating systems enable people with limited manual dexterity to move the mouse pointer using key strokes instead of a standard mouse. Many other types of assistive technology are available, and more are still being developed.

Executive Branch Entities are obliged to communicate effectively with people regardless of their disabilities.^{25 26} The Massachusetts [Information Technology Division](#) has undertaken major activities to ensure that the Executive Branch lives up to its legal obligations. Those efforts include the creation of a first in the nation state government internal accessibility laboratory, the establishment of contract standards and actual pre-acceptance testing for purchased customized application. See www.mass.gov/accessibility and the Contacts Chart at the end of Chapter I for further details.

²⁵ Mass Disability-Related Non Discrimination Standards, §8.01.

²⁶ In 2003, the Department of Justice issued a technical assistance document addressing website accessibility entitled, "[Accessibility of State and Local Government Websites to People with Disabilities.](#)" This technical assistance document can be accessed on the ADA Home Page at www.ada.gov





11. Licensing, Certification and Testing

An Executive Branch Entity may not discriminate on the basis of disability in its licensing, certification, and regulatory activities. A person is a "qualified individual with a disability" with respect to licensing or certification, if he or she can meet the essential eligibility requirements for receiving the license or certification.²⁷ While many programs and activities of public entities do not have significant qualification requirements, licensing programs often do require applicants to demonstrate specific skills, knowledge, and abilities. Public entities may not discriminate against qualified individuals with disabilities who apply for licenses, but may consider factors related to the disability in determining whether the individual is "qualified."

An Executive Branch Entity does not have to lower or eliminate licensing standards that are essential to the licensed activity to accommodate an individual with a disability. Where an Executive Branch Entity administers licensing examinations, it must provide auxiliary aids for applicants with disabilities and administer the examinations in accessible locations.

In addition, an Executive Branch Entity may not establish requirements for the programs or activities of licensees that would result in discrimination against qualified individuals with disabilities. For example, an Executive Branch Entity's safety standards may not require the licensee to discriminate against qualified individuals with disabilities in its employment practices.

Although licensing standards are covered by Title II of the ADA, the licensee's activities themselves are only covered when the licensee is being paid by the state to provide the service. An activity does not become a "program or activity" of an Executive Branch Entity merely because it is licensed by the Executive Branch Entity.

²⁷ US Department of Justice Technical Assistance manual for Title II of the Americans with Disabilities Act, **II-3.7200**





12. Eligibility Standards, Criteria and Methods of Administration

- **Eligibility Standards**

An Executive Branch Entity cannot use eligibility criteria²⁸ that screen out or tend to screen out people or any class of people with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless those criteria are necessary for providing the goods, services, facilities, privileges, advantages, or accommodations being offered.

- **Other Criteria or Methods of Administration**

An Executive Branch Entity cannot use criteria or methods of administration²⁹ that cause qualified individuals with disabilities to be discriminated against on the basis of disability. They may not do so directly or through contractual or other arrangements. Those criteria and methods may not:

- Subject qualified individuals to discrimination on the basis of disability;
- Defeat or substantially impair accomplishment of the objectives of the Executive Branch Entity's program with respect to people with disabilities; or
- Perpetuate the discrimination of another Executive Branch Entity or another Massachusetts agency.

²⁸ Massachusetts Disability-Related Standards for Non-Discrimination for Executive Branch Agencies, §7.01.

²⁹ Massachusetts Disability-Related Standards for Non-Discrimination for Executive Branch Agencies, §6.02(G)



The Disability Handbook





III. MEETINGS, DOCUMENTS AND TRAININGS

This chapter is divided into seven sections:

- **Employees with Disabilities and Meeting Attendance**
- **Meeting with Non-Executive Branch Attendees**
- **Disseminating News Releases, Public Notices, Texts and Other Documents**
- **Hosting Accessible Meetings and Events**
- **Non-Executive Branch Events**
- **Audio-Visual Media Produced or Owned by the Executive Branch Entities**
- **Trainings**





The Disability Handbook



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1. Employees with Disabilities and Meeting Attendance

a. Who pays for accommodations?

Because the agency employing an individual with a disability and an agency holding a meeting both have legal obligations to communicate effectively with that individual, there has been some confusion about which Executive Branch Entity should pay for auxiliary aids and services related to meetings and events. In the absence of any specific guidance for a particular event, Massachusetts Executive Branch Entities should follow these general rules:

1. When the meeting is internal to government, the employer agency should pay for the aids and services.
2. When the employee has assigned personnel to provide auxiliary aids and services as a reasonable accommodation, the employer agency should pay for the aids and services.
3. When the meeting or event is open to the public, the Executive Branch Entity convening the meeting should pay for the aids and services.
4. Where the employer agency is providing the aids or services the convening agency must provide all materials that are to be communicated to the employer agency in accessible digital format no later than 5 business days prior to the meeting or event.

b. Internal Executive Branch Meetings

IF THE MEETING IS OPEN TO EXECUTIVE BRANCH STAFF ONLY ...

- Include a reasonable accommodation statement in all announcements and publicity, including all invitations, flyers, posters, e-mails, advertisements, etc.

IF THE MEETING IS FOR A LIMITED EXECUTIVE BRANCH AUDIENCE ... (division meeting, internal task force, committee, etc.)

AND YOU KNOW THE ATTENDEES

- Be sure to request accommodations (e.g., accessible formats, sign language interpreters, etc.) you know will be needed as far in advance as possible.

AND YOU DON'T KNOW THE ATTENDEES

- Include a reasonable accommodation statement in your invitation or announcement.

IF THE MEETING REQUIRES PRE-REGISTRATION ...

- Be sure your registration form includes a reasonable accommodations section. See sample statement at the end of this chapter.
- As soon as a request for accommodation is received forward the request to the appropriate person.





2. Meetings With Non-Executive Branch Attendees

IF YOUR MEETING IS A PUBLIC MEETING WITH NO PRE-REGISTRATION REQUIRED ...

- Include a reasonable accommodation statement in all announcements and publicity, including all invitations, flyers, posters, e-mails, advertisements, etc.

IF YOUR MEETING IS OPEN TO A LIMITED PUBLIC AUDIENCE... AND YOU KNOW THE ATTENDEES

- Be sure to request accommodations (e.g., accessible formats, sign language interpreters, etc.) you know will be needed as far in advance as possible.

AND YOU DON'T KNOW THE ATTENDEES

- **Include a reasonable accommodation statement** in your invitation or announcement.

Notify the Security Personnel in the Building where the meeting is to be held in advance if you expect a large number of attendees with disabilities. Advance notice allows security officers to prepare themselves for alternative communication modes and reminds them to expect visitors with assistive devices that may require special handling when going through metal detectors.

Providing Reasonable Accommodation is an obligation you must meet. It will make it much easier on all concerned if enough time is allocated to organize the necessary tasks. It is recommended that your first public announcement is released at least one month (30 days) in advance.

See Model Reasonable Accommodation Statement at the end of this chapter.



IF YOUR MEETING IS AN EXECUTIVE BRANCH OPEN MEETING, SUCH AS A BUDGET HEARING, REGULATORY REVIEW, STATE PLANS REVIEW ...

AND / OR FOCUSES ON ISSUES YOU EXPECT TO BE OF INTEREST TO PEOPLE WITH DISABILITIES,

AND A LARGE ATTENDANCE IS EXPECTED,

AND THERE IS NO PRE-REGISTRATION ...

- **Include a reasonable accommodation statement** in all announcements and publicity, including all invitations, flyers, posters, e-mails, advertisements, etc.
- As soon as a request for accommodation is received, alert those who will be involved in fulfilling the request.

Notify the Security Personnel in the Building where the meeting is to be held in advance if you expect a large number of attendees with disabilities. Advance notice allows security officers to prepare themselves for alternative communication modes and reminds them to expect visitors with assistive devices that may require special handling when going through metal detectors.

Providing Reasonable Accommodation is an obligation you must meet. It will make it much easier on all concerned if enough time is allocated to organize the necessary tasks. It is recommended that your first public announcement is released at least one month (30 days) in advance. See Model Reasonable Accommodation Statement at the end of this chapter.

If services have already been arranged for a meeting that must be rescheduled or cancelled, please notify the person who made the arrangements as soon as possible since you are obligated to pay in full for services canceled without appropriate advanced notice.





IF SIGN LANGUAGE INTERPRETERS ARE PRESENT FOR A MEETING ...

- Make an announcement from the podium noting that interpreters are available and inquiring if there are any attendees who wish to use their services.

SAMPLE WORDING FOR ANNOUNCEMENT OF INTERPRETER AVAILABILITY:

Sign language interpreters are available for this meeting. Although we have had no requests for interpreting services, we would like to make sure that we are meeting the needs of all attendees. If there is anyone currently in attendance who needs the services of an interpreter, please so indicate to the interpreter. [pause for response]

Thank you. [continue with meeting content]

IF AGENDAS AND OTHER DOCUMENTS FOR A MEETING ARE AVAILABLE IN ALTERNATIVE FORMATS, SUCH AS BRAILLE OR LARGE PRINT, ...

- Make an announcement from the podium noting their location and inquiring if there are any attendees who wish to avail themselves of them.

IF YOUR MEETING REQUIRES PRE-REGISTRATION ...

- Be sure your registration form includes a reasonable accommodations section.
- As soon as a request for accommodation is received, forward the request to the appropriate person. See Model Reasonable Accommodation Request Form at the end of this chapter.





3. Disseminating News Releases, Public Notices, Texts, And Other Documents

- Include an accessible format statement in your releases.

Model statement:

Accessible Formats

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to (Name of your Executive Branch Entity contact) or call the (Name of your Executive Branch Entity contact):

- Make sure to indicate the web address consumers can use to get an electronic copy.





4. Hosting Accessible Meetings And Events

Hosting successful meetings or events requires cooperation between event planners, chairpersons, emcees, moderators, coordinators, and attendees. The following hosting responsibilities and guidelines can help produce accessible events that comply with non-discrimination requirements.

OPENING ANNOUNCEMENTS

- **Announce the availability of any accommodations that are in place.**
 - Example: “For the [event name] today, we have the following accessibility services available [mention those actually in place for the event, e.g., sign language interpreters, Assistive Listening Devices, CART and/or captioning.] Also, agendas and handouts are available in large print, electronic format, and Braille. If anyone needs assistance in locating where these services are being provided please let [identify any Executive Branch staff who can assist in getting attendees the appropriate service(s) or products—ask the Executive Branch staff identified to stand] know.”
 - Also point out the person(s) responsible for each accommodation, so participants will know who to turn to for help if an accommodation is not working as advertised.
- **Provide verbal directions to accessible restroom facilities.**
 - For example, if the meeting is being held in the 21st Floor Conference Room 2 in the McCormack State Office Building in Boston, the directions would look something like:

Turn left when exiting the conference room for the restrooms. Once past the elevator lobby, the ladies room is the third door on the right side. The men’s room is two doors further down, also on the right side of the hall.
- **Provide verbal directions to any site facilities** the attendees may need to know about; e.g., cafeteria, payphones, TTYs, ATMs.

MEETING MODERATORS

- **Introduce all speakers and panelists verbally by name.** An alternative method is to ask the speakers to take turns introducing themselves. This practice is preferable, as those in the audience who can not see become familiar with the voices of the presenters.
- **Make it a practice to recognize individuals who would like to take the floor.**
 - This will avoid situations where several people attempt to speak at the same time. This is both good meeting practice and an aid to interpreters and CART writers, who are only able to render the comments of one speaker at a time.
 - This will identify the speaker for attendees who are blind or have low vision as well as for CART writers, and sign language interpreters.
 - A variation that is often used, particularly for events with attendees who are blind or have low vision, is to ask speakers to identify themselves each time they make a comment. This is a major benefit to CART writers, sign language interpreters, and members of the audience using these accommodations. Announcing one’s name each time one speaks is imperative when using remote CART, as the writer often cannot see the speaker.



- Since there is always a time lag between the time interpreters, and CART writers hear a message and are able to transcribe it, people who depend upon these services receive such information at a point slightly later than hearing participants. This frequently puts people who are deaf and hard of hearing at a disadvantage when trying to make a point or to respond to a question. By the time the question or issue is conveyed to them, others have already begun answering. By controlling access to the floor, the moderator can provide more equitable opportunities for comment and response.
- **Verbally acknowledge any speakers/panelists joining the meeting while in progress, or leaving the meeting before it ends.**
 - For example: “We’ve just been joined by Alex Bell from Executive Branch Corp....glad to have you with us!” (Give Alex a chance to respond briefly. This will orient people who are blind or have low vision to his location and to his voice.) Then return to the discussion at hand.
- **If the public address system is not working properly, interrupt the speaker, reminding them to wait until the microphone is working correctly and repeat their comments using the working public address system.** Participants relying on Assistive Listening Devices, sign language interpreters, and CART text will miss the information if it does not come through the PA system.
- **Remember to be patient. It will take extra time for individuals with speech disabilities or individuals using sign language interpreters or CART to fully participate in discussions.**
 - Participants with speech disabilities may require additional time to complete their comments.
 - And, individuals using sign language interpreters, captions, and CART, experience delays in receiving information as well as expressing comments. On average, there is a 1-15 second delay between the time a comment is uttered and the time the complete sign language interpretation is presented.
 - Similarly, there is a 1-15 second delay for the complete captioned or CART text to appear. There is a similar delay when a response is expressed in sign language and interpreted into speech.
 - Thus, asking a question or soliciting comments and then quickly selecting the first person to raise a hand or shout out a response, does not allow those experiencing time delays an opportunity to participate.
- **If the text of any handout or audio visual presentation is not available in accessible formats (i.e., Braille, electronic text file, large print), announce to the audience how to obtain a copy in an accessible format.**
 - Example: “We regret that the [document, PowerPoint presentation, agenda, etc.] is not available in Braille, large print, or electronic text. However, anyone in the audience can contact (Name of your Executive Branch Entity contact) to obtain a copy in the format you prefer. You can call (telephone and TTY numbers) or you can send an e-mail to (Name of your Executive Branch Entity contact).”





- **Be aware of any changes to the physical environment.**
 - If at any time before, during, or after the meeting, pathways or aisles become blocked for wheelchair access, move the barrier or designate someone to do so as soon as possible.
 - Also, if the layout of the meeting room is changed during the meeting (for example, tables/chairs moved in a different configuration, additional equipment brought in, etc.), announce the changes or additions to the audience and warn them of hazards associated with the change(s)/addition(s), (e.g., power cords, cables, etc.)
 - This will be especially helpful for attendees who are blind or have low vision. Example: “Just so that everyone is aware, we’ll need to change the location of some of the tables during the break in order to accommodate the equipment coming in for the next session. Also, please be aware that in order for the equipment to operate, there will be a power cord/cable that will be taped to the carpet that will run across the aisle. So please exercise caution when walking in the aisle area or close to the equipment when it is set up.”
 - **Always describe any changes to preprinted agendas, handouts, or other materials.**
 - **When an acronym that is not commonly known to the general public is first used, be sure to pause the discussion momentarily, giving the spelling and/or meaning of the acronym.** Not only will this be helpful to the audience, but will also be of invaluable assistance in providing accurate information to sign language interpreters, captioners, and CART writers. Example: “Excuse me. Just to help clarify what ‘Nancy’ is — it’s the acronym for the North American Numbering Council, N-A-N-C, which is often pronounced, ‘Nancy.’ It is ... [provide explanation].”
- **PRESENTERS WITH PRINTED HANDOUTS OR AUDIO/VISUAL MEDIA...
AND IT IS UNKNOWN IF PEOPLE WITH DISABILITIES WILL ATTEND...**
- Inform the presenters of the Executive Branch’s obligation to provide access to people with disabilities when requested. Ask the presenters whether printed handouts or audio-visual elements will be included in their presentations. If such materials will be in use, then....
 - Request that presenters have copies of the media they plan to use readily available in the event that people with disabilities should request accommodations. Inform the presenter that if a request for accommodation is received, they will be asked to forward a copy of their presentation materials to the Executive Branch immediately so that we may convert them into accessible format.



5. Non-Executive Branch Events

IF INVITED TO SPEAK AT A NON-EXECUTIVE BRANCH EVENT AND HAVE HANDOUTS OR AUDIO/VISUAL PRESENTATIONS...

Check with the event planner to find out whether the sponsoring organization has made arrangements for accessibility for individuals with disabilities.

IF THE HOSTS HAVE MADE ARRANGEMENTS FOR ACCOMMODATIONS...

- Have copies of handouts and audio-visual media ready for your hosts so that they can have them produced in accessible format.
- If interpreters are being provided and you would like some guidelines on how to work with them, see the section on sign language interpreters beginning on Chapter IV.

IF THE HOSTS HAVE NOT MADE ARRANGEMENTS FOR ACCOMMODATIONS OR DO NOT KNOW IF PEOPLE WITH DISABILITIES PLAN TO ATTEND...

- Be prepared to read or describe any document or Audio Visual presentation you will be sharing.
 - If any document you are presenting differs from the one passed out in accessible formats, be sure to re-read any sections or contextual material necessary to convey to the group the full impact of the change(s) made.
 - If you are exhibiting a diagram or model, be sure to describe the individual parts as well as any interactions or changes that are being shown. If animation or special effects are being used, be sure to describe those as well.
- If you are distributing print, electronic text, or audio formats at your presentation, send the document(s) (preferably in electronic format) to the person identified by the convening Executive Branch Entity at least two weeks prior to your presentation date.
- When submitting slides or other graphic displays that do not include textual content (for example pictures, drawings, unlabeled charts, etc.) for conversion to accessible format, please provide a description of the key visual elements; include an explanation of any special significance implied by the manner of presentation.
- If you do not have accessible copies of your materials with you, state at the beginning of your presentation that your materials can be provided in accessible format upon request. Ask audience members who need such formats to supply you with the following information:
 - Name, address, telephone number, e-mail address
 - Specific materials they would like converted to accessible format
 - Type of accessible format they are requesting

Forward the consumer's information along with copies of the document(s) they are requesting (preferably in electronic format) to the person identified by the convening Executive Branch Entity.





6. Audio-Visual Media

Organizers and planners of Executive Branch meetings must make sure that all attendees, including individuals with disabilities, are not “excluded from participation in,” or “denied the benefits of” meetings and events. In order to ensure that everyone can participate in and benefit from the meeting or event, it is vital that the organizer knows, to the extent possible, what audio/visual presentations will be used.

- **Presenters with Printed Handouts or Audio/Visual Media...**

And People with Disabilities Are Expected

Inform the presenters of the Executive Branch’s obligation to provide access to people with disabilities. Ask the presenters whether printed handouts or audio-visual elements will be included in their respective presentations. If such materials will be in use, then ...

- **In advance of the meeting, request a copy** of the media that presenters plan to use -- printed handouts, audio-visual elements, etc. If available, an electronic version is preferred.
 - For conversion of print and other textual media to Braille, large print, electronic text, or audio format, send an e-mail to (Name of your Executive Branch Entity contact) or call the (Name of your Executive Branch Entity contact)
 - When using slides or other graphic displays that do not include textual content (for example pictures, drawings, unlabeled charts, etc.), please provide a description of the key visual elements; include an explanation of any special significance implied by the manner of presentation. For example, if a parody of a company logo is displayed, note that it is a satirical depiction of Company X’s logo. Then proceed to describe what the image looks like.
 - If possible, submit materials at least 5 business days prior to the date they are needed so that the conversion to accessible format can be completed by the day of the event.
 - For consultation regarding video or other non-text media that is not captioned, contact your ADA/504 Coordinator to determine the arrangements needed to assure access. Please allow as much lead time as possible.
- Remind presenters and event moderators that information contained in working documents, flipcharts, posters, and visual aids must be read or described in order for the information to be accessible to the entire audience.
 - If, as a group, you are editing or revising a document, be sure to re-read any sections or contextual material necessary to convey to the group the full impact of the change(s) to be made.
 - If you are exhibiting a diagram or model, be sure to describe the individual parts as well as any interactions or changes that are being shown. If animation or special effects are being used, be sure to describe those as well.





- **Media Produced Or Owned By The Executive Branch Video Formats (Videotape, CD, DVD, etc.)**

Captioning

- Video media owned or produced by the Executive Branch that is intended for use by either staff or the public must be captioned. The captioning may be either open or closed. Content with specific relevance to emergency services should be open captioned so it can be displayed on any monitor, including those not required to have built in converters.
- When video is offered for sale with captions, the Executive Branch Entity must purchase the captioned version.
- For items that are not available for purchase with captions, or for items given to the Executive Branch without captions, the Executive Branch Entity must assure that captioning will be added at the earliest opportunity.
- Comments for the record on video that are accompanied by a transcript need not be captioned.

To Find Out How To Arrange For Captioning

Contact ...

Massachusetts Commission for the Deaf and Hard of Hearing

150 Mt. Vernon Street, Fifth Floor
Boston, MA 02125

www.mass.gov/mcd

Hours: 8:45 a.m. - 5:00 PM, Monday - Friday
or call: 617-740-1600 Voice, 617-740-1700 TTY
617-740-1880 Fax

Toll Free: 800-530-7570 TTY; 800-882-1155 Voice

Video Description

Video description is expected for visual media held or produced by the Executive Branch and must be available to be provided upon request. Retention and maintenance of video described versions of recordings should parallel that of non-video described versions.

Audio Recordings

Audio recordings that are owned by the Executive Branch and that are intended for use by either staff or the public must have written transcripts available upon request. Transcripts may be produced when requested and need not be prepared in advance. Once produced, however, the retention and maintenance of transcripts should parallel that of the audio recording.





7. Trainings

• EXECUTIVE BRANCH TRAINING

All Executive Branch sponsored trainings must be accessible to people with disabilities. It is expected that trainers will:

- Comply with reasonable accommodation requests from participants, including, but not limited to:
 - Providing print materials in Braille, large print, or electronic format.
 - Reading or describing visual objects, displays, or projections used in class.
 - Adjusting the classroom to allow appropriate lines of sight and/or physical access.
 - Providing transcripts of any audio media used in connection with the class.
 - Distributing any oral quizzes or tests in print format.
 - Providing print quizzes or tests in audio format.
 - Using good communication practices, such as using a microphone, having speakers identify themselves every time they talk and making sure interpreters and CART writers receive optimal audio information.
- Be sure your registration form includes a reasonable accommodations section.

See Model Reasonable Accommodation Request Form at the end of this chapter.

- As soon as a request for accommodation is received, forward it to the appropriate person.
- Include a reasonable accommodation statement in all announcements and publicity, including all invitations, flyers, posters, e-mails, advertisements, etc.

See Model Reasonable Accommodation Statement at the end of this chapter.



- **Executive Branch Contracted Training**

Entities contracting with the Executive Branch to provide training are obliged to provide accessible training. It is expected that trainers will:

- Comply with reasonable accommodation requests from participants, including, but not limited to:
 - Providing print materials in Braille, large print, or electronic format.
 - Reading or describing visual objects, displays, or projections used in class.
 - Adjusting the classroom to allow appropriate lines of sight and/or physical access.
 - Providing transcripts of any audio media used in connection with the class.
 - Distributing any oral quizzes or tests in print format.
 - Providing print quizzes or tests in audio format.
 - Using good communication practices, such as using a microphone, having speakers identify themselves every time they talk and making sure interpreters and CART writers receive optimal audio information.
- Be sure the registration form includes a reasonable accommodations section.

See Model Reasonable Accommodation Request Form at the end of this chapter.

- As soon as a request for accommodation is received, forward it to the appropriate person.
- Include a reasonable accommodation statement in all announcements and publicity, including all invitations, flyers, posters, e-mails, advertisements, etc.

See Model Reasonable Accommodation Statement at the end of this chapter.

- **Executive Branch Employees Attending External Training ...**

Executive Branch employees participating in external training are expected to complete an Executive Branch Training Form. Generally speaking, it is the responsibility of the entity offering the training to provide the accommodations. It is the employee's responsibility to make their reasonable accommodation needs known.





MODEL REASONABLE ACCOMMODATION STATEMENT TO BE USED IN ALL ANNOUNCEMENTS AND PUBLICITY, INCLUDING ALL INVITATIONS, FLYERS, POSTERS, E-MAILS, ADVERTISEMENTS, ETC.:

Reasonable Accommodations

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least two weeks (14 days) advance notice. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to (Name of your [Executive Branch Entity contact](#)) or call the (Name of your [Executive Branch Entity contact](#)).

MODEL REASONABLE ACCOMMODATION REQUEST FORM FOR INCLUSION IN REGISTRATION FORM:

Reasonable Accommodations

I need the following reasonable accommodation:

- Braille
 - Large Print
 - Digital Audio Recording
 - Please circle one: 3.5" Floppy Disk, CD, E-mail attachment
 - Please circle one: MP3, RealAudio
 - Digital Text
 - Please circle one: 3.5" Floppy Disk, CD, E-mail attachment
 - Please circle one: ASCII, MSWord
 - Sign Language Interpreter
 - CART (Computer Access Realtime Translation)
 - Assistive Listening Devices
 - Audio cassette (analog)
 - Other (please specify) _____
- _____

Please remember that each Executive Branch Entity is responsible for covering the accommodation costs, such as Sign Language Interpreters and CART, of its employees attending an internal executive branch meeting.





IV. REASONABLE ACCOMMODATIONS AND MODIFICATIONS

This chapter is divided into two sections:

- **What are Accommodations and Modifications?**
- **How to Handle Requests and Complaints**





The Disability Handbook



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1. What Are Accommodations and Modifications?

Most of this handbook discusses ways in which entities set themselves up generally. This Chapter is about the individual variations needed to accommodate the particular needs of people with disabilities. These accommodations and modifications are needed because the impact of a disability is different for each individual.

Requests to do things differently than an Executive Branch Entity would ordinarily operate are often made by people with disabilities. These accommodations and modifications enable them to participate in or benefit from Executive Branch Entity programs, activities and services. Entities must grant these requests when they are “reasonable.”

These requests are as varied as the needs of people with disabilities. Examples of reasonable requests include: helping a person without hands to fill out a form that the consumers are ordinarily obliged to complete themselves, providing a letter in Braille for a blind consumer, allowing a blind person to prove identity with other than a driver’s license, providing a diabetic meal at a luncheon sponsored by an entity and allowing a person to have a flexible time to appear for a meeting.





2. How to Handle Requests and Complaints

Requests can be made to virtually any Executive Branch employee. They can be oral or in writing.

NOTE: Entities may not demand a particular form as a condition to granting an accommodation or modification.

The Entity must inform all staff that they must report any requests for accommodation or modification to the ADA/504 Coordinator.

They should also report any complaints of discrimination or denial of reasonable modification to its ADA/504 Coordinator. When a complaint is received, the following process should be used.

- Whoever receives the complaint forwards it to the ADA/504 Coordinator.
- The ADA/504 Coordinator will investigate and issue a written decision and, where the complainant prevails, a corrective action plan should be implemented within 30 Days of the filing of the original complaint.
- If the complaining party gives oral or written notice to its ADA/504 Coordinator that he/she is not satisfied with the action taken, the ADA/504 Coordinator must forward the matter to the ADA/504 Coordinator for their Secretariat.
- If the Secretariat ADA/504 Coordinator is inclined to uphold the denial, he or she is strongly encouraged to review the merits of the claim with the ADA/504 Coordinator for the Massachusetts Office on Disability, Barbara E. Lybarger, at 617-727-7440, ext. 27315 or barbara.lybarger@state.ma.us, as soon possible.
- If not resolved by the Secretariat to the satisfaction of the complainant within 10 business days, the Secretariat shall notify the complainant and the Massachusetts Office on Disability of the denial and the reasons for it, or in the case of a delay in resolving the matter, of the reasons for the delay and when a decision should be expected.
- File an annual report with the Massachusetts Office on Disability listing and summarizing any complaints filed against it and their status or disposition, and
- Prominently display and disseminate its grievance procedures,

Note: Employment related complaints from applicants or employees of Executive Branch Entities should be addressed under the policies and procedures established by the [Office of Diversity and Equal Opportunity](#) .





V. DISABILITY RIGHTS LAWS IN MASSACHUSETTS

This chapter is divided into the following fifteen sections:

- Abuse and Neglect
- Architectural Access
- Automobiles and Transportation
- Disability Commissions
- Education
- Employment
- Equal Rights
- Hate crimes
- Housing
- Public Places and Programs
- Service Animals
- Telecommunications and Technology
- Voting
- Wheelchairs
- Zoning





The Disability Handbook



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Note on State & Local Laws, Ordinances, & Regulations

Executive Branch Entities may fail to consider reasonable modifications to state and local laws, ordinances, and regulations that would avoid discrimination against individuals with disabilities.

Laws, regulations, policies and even local ordinances that appear to be neutral often adversely impact individuals with disabilities. For example, where a municipal zoning ordinance requires a set-back of 12 feet from the curb in the central business district, installing a ramp for a state office to ensure access for people who use wheelchairs may be impermissible without a variance from the city. This should be addressed to before the space is finally selected.

Executive Branch Entities are required to make reasonable modifications to policies, practices, or procedures to prevent discrimination on the basis of disability. Reasonable modifications can include modifications to laws, ordinances, and regulations that adversely impact people with disabilities. For example, it may be a reasonable modification to grant a variance to zoning requirements.

In addition, Executive Branch Entities should grant exceptions to the enforcement of certain laws as a form of reasonable modification. For example, a public health regulation banning animals from health clinics should be modified to allow a person with a disability who uses a service animal to bring the animal to a mental health counseling session. 28 C.F.R. § 35.130 (b)(7).





1. Abuse / Neglect / Treatment Conditions

Massachusetts Disabled Persons Protection Act - [G.L. c. 19c](#)

This statute protects disabled persons, including persons with mental retardation, physical disabilities, and head injuries, who are between the ages of 18 and 59, and who, as a result of a disability, are dependent on others to meet their daily living needs. Anyone suspecting abuse can contact the Disabled Persons Protection Commission (DPPC). “Mandated reporters” (physicians, dentists, nurses, teachers, day care workers, etc.) must report cases of suspected abuse. After the suspected abuse is reported, the DPPC investigates allegations of abuse by caretakers only. In some cases, those investigations are referred to an Executive Branch Entity within the Executive Office of Human Services for intervention and further investigation. After the investigation (which should be completed within 24 hours if the call is an emergency and 10 days if it is not) protective services are delivered.

For more information or to report a case of abuse:

Disabled Persons Protection Commission

50 Ross Way

Quincy, MA 02169

(617) 727-6465, (800) 426-9009

Website: <http://www.mass.gov/dppc>





Massachusetts Mental Illness or Mental Retardation, Rights of Persons Receiving Treatment Act

[G.L. c. 123, § 23](#)

Individuals receiving treatment for mental illness or mental retardation are entitled to certain rights and privileges, such as sending and receiving mail, receiving visitors, using telephones and living in a humane psychological and physical environment.

[G.L. c. 123, §12](#)

Central to these rights is the limitation of the number of days people may be confined to a hospital without a court order.

Enforcement: Notice of the rights created under this law is to be prominently posted in all programs and facilities. Those notices include information about where and how to appeal violations of these rights.

U.S. Civil Rights of Institutionalized Persons Act - [42 U.S.C. §1997, et seq.](#)

The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the U.S. Attorney General to investigate conditions of confinement at state and local government institutions such as prisons, jails, pretrial detention centers, juvenile correctional facilities, publicly operated nursing homes, and institutions for people with psychiatric or developmental disabilities. Its purpose is to allow the Attorney General to uncover and correct widespread deficiencies that seriously jeopardize the health and safety of residents of institutions. The Attorney General does not have authority under CRIPA to investigate isolated incidents or to represent individual institutionalized persons. The Attorney General may initiate civil law suits where there is reasonable cause to believe that conditions are "egregious or flagrant," that they are subjecting residents to "grievous harm," and that they are part of a "pattern or practice" of resistance to residents' full enjoyment of constitutional or Federal rights, including Title II of the ADA and section 504 of the Rehabilitation Act.

Enforcement:

U.S. Department of Justice, Civil Rights Division

950 Pennsylvania Avenue, N.W.
Special Litigation Section - PHB
Washington, D.C. 20530
(877) 218-5228

Web site: www.usdoj.gov/crt/split





2. Architectural Access

Massachusetts Architectural Access Board – [G.L. c. 22, § 13A](#)

The Architectural Access Board (AAB) is a regulatory agency whose mandate is to develop and enforce regulations designed to make public buildings accessible to, functional for and safe for use by persons with disabilities. [See 521 C.M.R.](#) In addition to writing regulations, the Board decides on variance requests, issues advisory opinions and makes decisions on complaints. Local building inspectors are responsible for enforcing the regulations which are a specialized section of the Massachusetts Building Code. [See 780 C.M.R.](#)

The construction, renovation, remodeling, or alteration of a building or facility that is open to the public triggers the authority of the AAB. New construction must fully comply.

For renovation, remodeling, or alteration:

- The work being done must comply with the regulations.
- If the work done in any 36-month period is greater than \$100,000, the work being performed is required to comply. In addition, an accessible entrance is required. Where provided, public telephones, drinking fountains and rest rooms must also comply.
- If the work done in a 36-month period is more than 30% of the “full and fair cash value” of the building,³⁰ the entire building must come into compliance.

Enforcement: Anyone can file a complaint with the Board. The Board has the authority to issue variances and impose fines of up to \$1000 per violation per day of noncompliance with its order. Call the AAB for the appropriate complaint or variance forms.

Architectural Access Board

One Ashburton Place, Room 1310
Boston, MA 02108
(617) 727-0660, (800) 828-7222

Website: <http://www.mass.gov/aab>

³⁰ This is usually the assessed value established by the city or town. See [521 C.M.R. § 5.38](#) for details about establishing value where no assessment exists.





The Disability Handbook



See also Chapter 11, sec. 82 of the Acts of 1997 this was a budget bill. It is not clear if it applies to work done in years other than FY1997. It states:

The Department of highways is hereby authorized and directed to require the installation of curb-cuts, so called, for the purpose of compliance with the Americans with Disabilities Act, so called, for any highway project involving substantial resurfacing, lane realignment, widening, construction or reconstruction that uses funds of the Commonwealth. Said curb cuts shall be required at any intersection or crosswalk directly located within the scope of any such project, or that abuts or is reasonably adjacent to the scope of such work. The requirements of this section shall apply to any highway project undertaken by said department or a political subdivision of the commonwealth using said funds, but shall not apply to routine maintenance.

US Architectural Barriers Act - [42 U.S.C. § 4151, et seq.](#)

The Architectural Barriers Act (ABA) requires that buildings and facilities that are designed, constructed or altered with federal funds, or leased by a federal agency, comply with federal standards for physical accessibility. [41 C.F.R. §101-19.6](#). ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. They do not address the activities conducted in those facilities. U.S. Postal Services facilities are also covered by the ABA.

Enforcement: For more information or complaint forms contact:

U.S. Architectural and Transportation Barriers Compliance Board

1331 F Street, NW, Suite 1000
Washington, D.C. 20004-1111
[800] 872-2253 Voice
[800] 993-2822 TTY

Website: <http://www.access-board.gov>





3. Automobiles & Transportation

Americans with Disabilities Act, Title II: Transportation - [42 U.S.C. § 12141, et seq.](#)

Public Transportation services, such as buses, subways and rail transit systems, may not discriminate against people with disabilities in the ways they provide their services. New public transit buses and rail vehicles ordered after August 26, 1990 must be wheelchair accessible. Transit authorities that operate fixed route bus or rail systems must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result. Existing rail systems must have one accessible car per train (effective July 26, 1995). Key stations in rapid, light and commuter rail systems should have been made accessible by July 26, 1992, with extensions up to 20 years for commuter rail and 30 years for rapid and light rail for stations needing extraordinarily expensive structural changes. All existing Amtrak stations must be accessible by July 26, 2010. Private businesses that provide public transportation services will have to comply with the same requirements as public transit agencies, except for automobiles. The date for requiring new over-the-road buses (Greyhound-type) to be accessible was July 26, 1996 or 1997, depending on the size of the business. Private businesses which provide transportation (such as hotels) must ensure disabled persons a level of service equivalent to the general public.

Under Title III, [42 U.S.C §12183, et seq.](#), The ADA also imposes restrictions on private transportation providers that offer their services to the public. Specifically, they may not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability. They must make reasonable modifications to their policies, practices, and procedures, provide auxiliary aids and services and remove physical barriers to participation. In some circumstances, private transportation providers must also comply with requirement for the purchase or lease of new accessible vehicles.

Enforcement:

U.S. Department of Transportation, FTA, Region 1

55 Broadway, Suite 920

Cambridge, MA 02142

(617) 494-2055 (Voice), 617 494-3154 (TTY)

[617] 494-2055 FAX

Websites: http://www.fta.dot.gov/transit_data_info/ada/14524_ENG_HTML.htm and
<http://www.unitedweride.gov>

Individuals may also file private lawsuits.





Federal Air Carrier Access Act – [49 U.S.C. § 41705](#)

Domestic air carriers may not refuse persons with disabilities transportation because of their disability. Some of the provisions include the following: Air carriers may not limit the number of persons with disabilities on a flight, may not require special services (such as advance boarding), may not require advance notice except for certain accommodations, may not require travel with an attendant except in limited circumstances, must provide boarding assistance and assistance within the cabin, must give priority to storage of wheelchairs and may not charge for accommodations required by the law. New aircraft over certain sizes must have movable armrests, accessible lavatories and space for storing wheelchairs (the larger the aircraft the more access is required).

Enforcement: Air carriers must establish their own compliance procedure, including “complaints resolution officials.” Complaints may also be filed with:

**U.S. Department of Transportation
Aviation Consumer Protection Division**

400 7th Street, S.W.
Washington, DC 20590
(202) 366-2220

Website: http://www.faa.gov/passengers/passengers_disabilities

Massachusetts Automobile Excise Tax Exemption – [G.L. c. 60A, § 1](#)

Exempts qualified disabled persons from excise tax requirements. The motor vehicle must be owned and registered by a person who has suffered loss or permanent loss of use of both legs or both arms or loss of vision of both eyes to a certain degree. The exemption applies to only one motor vehicle per person owned and registered for their personal and noncommercial use. Applications for exemptions are available from the local city or town assessor’s office.





Massachusetts Automobile Sales Tax Exemption – [G.L. c. 64H, § 6](#)

This law exempts certain people with disabilities from the purchase and use tax of a motor vehicle. To qualify, a disabled person must be the original registered owner of the motor vehicle and have the loss of two or more limbs or permanent loss of use of at least 80% of two or more limbs. Parents and others, who transport similarly disabled children or adults, who have been found incompetent to legally enter into contracts, may also be entitled to this exemption. [See DOR Directive 03-11](#). The Department of Revenue has clarified that a wheelchair lift used to make a van accessible may also be exempt even if purchased separately from the vehicle. In cases where the lift is purchased after the van, a physician's prescription may be needed to document this exemption. [See DOR Directive 00-7](#).

Applications:

Massachusetts Department of Revenue Customer Service Bureau

P.O. Box 7010
Boston, MA 02204
(617) 887-6367

Website: <http://www.mass.gov/dor>

Or

Massachusetts Registry of Motor Vehicles Medical Affairs

P.O. Box 199100
Boston, MA 02119-9100
(617)351-9222 (Voice); (877)768-8833 (TTY)

Website: <http://www.mass.gov/rmv>

Massachusetts Gas Station Law – [G.L. c. 94, § 295CC](#)

A gas station that has both full and self-service pumps must dispense fuel at the self-service pumps **at the lower price** to persons who have HP plates, placards or disabled veterans plates. At all self-services stations with more than one attendant, they are obliged to pump the gas for a person with a disability on request. Signs must be posted at the pumps informing patrons of this information.

Enforcement:

Executive Office of Consumer Affairs

Division of Standards
One Ashburton Place, Room 1115
Boston, MA 02108
(617) 727-3480

Website: <http://www.mass.gov/standards>





Massachusetts Handicapped Parking Laws

Chapter 40 governs a variety of activities by cities and towns, including parking. The primary sections that deal with Handicapped Parking are:

- **Parking Lots:**

[G.L. c. 40 § 21, ¶ 23](#): All parking lots and garages open to the public must comply with the parking regulations of the Architectural Access Board which are similar to but significantly different from the specifications of this Handicapped Parking Law. The Law requires public or private parking areas that are used by the public to reserve designated parking spaces for vehicles, which bear an HP plate, placard or a disabled veteran plate. The minimum numbers for designated spaces are as follows:

Total Spaces	% HP	Minimum #
15 - 25	-	1
26 - 40	5.00%	2
41 -100	4.00%	3
101 - 200	3.00%	4
201 - 500	2.00%	6
501 - 1,000	1.50%	10
1,001 - 2,000	1.00%	15
2,001 - 5,000	0.75%	20
> 5,001	0.50%	30

These spaces must be as near as possible to the building entrance or walkway and adjacent to a curb ramp permitting sidewalk access. The spaces must have above grade signs which bear the words “Handicapped Parking: Special Plate Required Unauthorized Vehicles May be Removed at Owner’s Expense”.

- **Parking Meter Fees**

[G.L. c. 40 § 22A](#): In Cities and Towns that have parking meters, people who have an HP plate or display placard are exempt from paying parking meter fees. However, this exemption only applies to meters, **not** any other type of pay to park system.

- **Over Time Parking Limits**

[G.L. c. 40 § 22](#): People who have an HP plate or display placard are exempt from the time limits on a parking space, such as 15 minutes or 1 hour only, etc. However, this does not exempt plate or placard users from fines or towing when “No Parking” restrictions are in effect, such as snow emergencies, and overnight parking bans.

- **Reserved Spaces and Towing**

[G.L. c. 40 § 22D](#): A municipality may further regulate parking by restricting certain on-street areas for vehicles bearing HP plates or placards. People who park blocking curb cuts or handicapped parking spaces can be towed.

Enforcement: Fines for parking in a handicapped parking space without a plate or placard range from one hundred dollars (\$100) to three hundred dollars (\$300). The exact amount is determined by the municipality. Cars may also be towed. Enforcement is by the local police or traffic department.

Websites for Municipalities: <http://www.mass.gov/cc> for city and town information.





Massachusetts Handicap Plate and Placard Law - [G.L. c. 90, § 2](#)

HP plates and placards are issued through the Registry of Motor Vehicles to eligible people with disabilities. As discussed under the parking laws above, they entitle holders:

- to park in designated HP spaces,
- to park longer than usual time limits,
- to park at parking meters free of charge, and
- to make use of the gas station law.

The rights, responsibilities and privileges of plate holders and placard holders are the same. The Registry's Bureau of Medical Affairs determines eligibility according to physician's documentation. Only people who meet the disability definition and who are the registered owner of the vehicle and who are licensed drivers may receive plates. Anyone who meets the disability definition can get a placard. Individuals who meet the standards for both plates and placards can choose which they prefer. The only practical difference between them is that a plate is permanently attached to one car, while a placard is a card that can easily be moved from one car to another. The Massachusetts Registry of Motor Vehicles also issues temporary placards in some circumstances.



Note: Substantially revised in 2000, the law allows eligible individuals to obtain both a placard and a plate. An individual who uses a handicapped placard without proper authorization is the individual who will be penalized, as opposed to the individual with a disability to whom the placard was issued. A placard may be utilized for parking in association with the transportation of the authorized user of the placard. It allows workers with disabilities to use their placard when driving a commercial vehicle, but preserves the time limitations for the utilization of commercial spaces. It increases the fines for unauthorized utilization of handicapped placard from one hundred to five hundred dollars for the first offense and one thousand dollars for subsequent offenses. It specifies that the fines and penalties in this section are in addition to those specified in Section 37E of Chapter 266 for the fraudulent use of another's identity.

Applications for plates and placards are available at the Registry of Motor Vehicles Offices or by contacting:

Massachusetts Registry of Motor Vehicles

Medical Affairs

P.O. Box 199100

Boston, MA 02119-9100

(617) 351-9222 or (800) 858-3926 (Voice)

(877) 768-8833 (TTY)

Hand Deliveries to:

Massachusetts Registry of Motor Vehicles

630 Washington Street

Boston, MA. 02119

Website: <http://www.mass.gov/rmv/medical>

Massachusetts White Cane Law - [GL c. 90 § 14A](#)

Whenever a blind pedestrian, guided by a guide dog or carrying a raised or extended cane which is white or white tipped with red, attempts to cross a street, drivers must stop for the dog or cane user. A person who owns an animal shall restrain and control such animal on a leash when in proximity to a guide dog that is on a public or private way. Violations of this law are punishable by a criminal fine of not less than one hundred and no more than five hundred dollars.

Enforcement:

The White Cane Law is enforced by state and local police.

Websites for Municipalities: <http://www.mass.gov/cc>





4. Disability Commissions

Massachusetts Disability Commissions - [G.L. c. 40, § 8J and 22G](#)

A city or town, which accepts the provisions of this Section, is authorized to establish a Disability Commission. Commissions work with the Office on Disability to carry out programs and activities designed to integrate people with disabilities into the community. The specific activities of a Commission depend on the needs of the disabled community in the particular city or town.

Commissions consist of five to nine members, and are appointed by the mayor or city manager in cities or by the selectmen or town manager in towns. The majority of members must be disabled, and one must be an immediate family member of a disabled person. One member of the Commission must be an elected or appointed official of the city or town. Members are initially appointed in staggered one, two and three year terms. A Commission must have at least six meetings per year, keep records of its meetings and actions, and file an annual report. Commissions generally are authorized to receive gifts and other funds, under Section 8J, to be used for the benefit of persons with disabilities. Cities and towns which have chosen to implement a Handicapped Parking Program may empower Commissions to receive and administer fines from violations of the Handicapped Parking Law, under Section 22G. The details of these funding decisions are left to the collaborative efforts of officials in the local communities.

For more information, contact:

Massachusetts Office on Disability

1 Ashburton Place, #1305

Boston, MA 02108

(617) 727-7440 (800) 322-2020 [V/TTY]

Web site: <http://mass.gov/mod/MunicipalCommissionList.html>





5. Education

Massachusetts Fair Educational Practices Law - [G.L. c. 151C](#)

Very limited protections are available in the area of education. Specifically, for “educational institutions,” it is illegal to exclude from admission any student because the student is blind or deaf or requires the use of a dog guide. Educational institutions are defined as:

any institution for instruction or training, including but not limited to secretarial schools, business schools, academies, colleges, universities, primary and secondary schools, which accepts applications for admission from the public generally and which is not in its nature distinctly private ...

[GL c. 151C §1\(b\).](#)

For “vocational schools,” disability is not mentioned as a protected classification. Vocational schools are defined as:

... any educational institution the primary purpose of which is to offer technical, agricultural, business or trade courses or courses of study leading to employment in recognized trades or occupations.

[GL c. 151C §1\(d\).](#)

Enforcement: Complaints must be filed within six months of the alleged discrimination with:

Massachusetts Commission Against Discrimination

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice), (617) 994-6196 (TTY)

Or

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145

Website: <http://www.mass.gov/mcad>





The Disability Handbook



U.S Individuals with Disabilities Education Act - [20 U.S.C. § 1400, et seq.](#)

This federal law, modeled after the Massachusetts law Chapter 766, requires public schools to make available to all eligible children with disabilities a free and appropriate public education in the least restrictive environment appropriate to their individual needs. Any child who qualifies for special education services will receive them following an evaluation and the development of an Individualized Education Plan (IEP). A team of interested parties, which can include such people as educators, parents, physicians and advocates, develops the plan.

Enforcement: If an agreement cannot be reached concerning a student's IEP or if the agreed upon plan is not being implemented, contact:

U.S. Department of Education

U.S. Office for Special Education and Rehabilitation Services

400 Maryland Ave., SW
Washington, DC 20202-7100
(202) 245-7468

Website: <http://www.ed.gov/about/offices/list/osers>

Massachusetts Early Childhood Intervention Law – [G.L. c. 111G](#)

Under this law, the Department of Public Health (DPH) is responsible for the implementation and administration of early intervention services. Early intervention services are provided to children and the families of children who are between birth and three years of age and who have identified handicapping conditions or who are at risk for developmental delays due to biological or environmental factors. Services focus on the family and include speech, occupational and physical therapy, social work, psychological, and nursing care. DPH must provide transportation whenever transportation to early intervention services is required. Under this law, DPH is the lead agency for the coordination of all governmental funding for the provision of early intervention services, both state and federal. DPH is also responsible for administration of an advisory committee, which monitors and assesses the effectiveness of the administration of early intervention services.

Enforcement:

Massachusetts Department of Public Health Bureau of Family & Community Health

250 Washington Street
Boston, MA 02108
(617) 624-6060

Website: <http://www.mass.gov/dph/fch>





The Disability Handbook



Massachusetts Public Education Law, Ch. 766 - [G.L. c. 71B, §§ 1 - 14](#)

This state law guarantees a "free and appropriate public education in the least restrictive environment" to all school-aged children (ages 3 to 22) regardless of disability. Any child who qualifies for special education services will receive services specified in an Individualized Education Plan (IEP). A team of interested parties, including educators, parents, physicians and advocates, develops the plan.

Enforcement: If an agreement cannot be reached concerning a student's IEP or if the agreed upon plan is not being implemented, the Department of Education should be contacted.

Massachusetts Department of Education Program Quality Assurance Unit

350 Main Street
Malden, MA 02148-5023
(781) 338-3000

Website: <http://www.doe.mass.edu>

Massachusetts Braille Literacy Law - [G.L. c. 6, § 133G](#) and [G.L. c. 71B, § 3](#)

Legally blind adults and children are entitled to instruction in Braille. School age children are entitled to receive their instruction as part of their school's special education services. Others receive training through the Massachusetts Commission for the Blind.

For further information contact:

Massachusetts Commission for the Blind

48 Boylston Street
Boston, MA 02116-4718
(617) 727-5550 & (800) 392-6450 (Voice)
FAX (617) 626-7685; (800) 392-6556 (TTY)

Website: <http://www.mass.gov/mcb>

Massachusetts Transitional Planning Services, Turning 22 (Commonly Known as Chapter 688) - [G.L. c. 71 B, §§ 12A - C](#)

This law provides a transitional planning process for eligible people with disabilities who will lose special education services upon graduation or upon turning 22. An assigned agency develops an Individual Transitional Plan describing the services needed. The Individual Transitional Plan must be agreed upon by the Department of Education, the Executive Office of Human Services, other agencies involved, and people with disabilities or their guardians. The Bureau of Transitional Planning within the Department of Education monitors all Chapter 688 cases.

Enforcement: Questions and complaints are sent to:

Executive Office of Health & Human Services Bureau of Transitional Planning

One Ashburton Place, Room 1109
Boston, MA 02108
(617) 573-1600 (Voice); (617) 727-0014 (TTY)





6. Employment

Americans with Disabilities Act Title I: Employment - [42 U.S.C. § 12111, et seq.](#)

The law prohibits employers from firing, refusing to hire or rehire, or otherwise discriminating, against a qualified person with a disability on the basis of disability. To be “qualified” a person must be able to perform the essential functions of the job, or would be able to perform the essential functions with reasonable accommodation. “Reasonable accommodation,” such as a flexible work schedule, providing a reader or transfer to an office in an accessible location, are adjustments employers must make to enable persons with disabilities to work. These accommodations are at the employer’s expense, unless they are an “undue hardship.” For employers with 25 or more employees, the law became effective July 26, 1992; for employers with 15 or more employees it became effective July 26, 1994. Please be sure to review Massachusetts Employment Discrimination Law, which applies to employers with 6 or more employees. Also please consult Sections 501 and 504 of the Federal Rehabilitation Act and Executive Order 478.

Enforcement:

U.S. Equal Employment Opportunity Commission

JFK Building, Rm. 475, Boston, MA 02203-0506

(617) 565-3200 or (800) 669-4000 (Voice)

(617) 565-3204 or (617) 699-6820 (TTY)

Website: <http://www.eeoc.gov>

U.S. Rehabilitation Act - [29 U.S.C. § 791 et seq.](#)

- **Employment by the Federal Government: Section 501**

Prohibits discrimination and requires adoption of affirmative action plans for hiring, placement, and advancement of individuals with disabilities within federal agencies and the U.S. Postal Service.

Enforcement: Complaints may be filed with the agency’s Equal Employment Opportunity Counselor for informal review and resolution. If the matter is not resolved satisfactorily within 21 days, a formal complaint may be filed with the agency head, the Director of Equal Employment Opportunity, an Equal Opportunity Officer, or other designated official.

- **Employment by Federal Contractors: Section 503 - [29 U.S.C. §793](#)**

Prohibits discrimination on the basis of disability and requires affirmative action in hiring persons with disabilities when the employer has a contract or subcontract with the federal government in excess of \$10,000.

Enforcement:

The 503 regulations are written and enforced by the Department of Labor. Complaints go to:

U.S. Department of Labor, Office of Federal Contract Compliance Programs

J.F.K. Building, Room 525, Boston, MA 02203 (617) 624-6780

Website: <http://www.dol.gov/esa/ofccp>





Massachusetts Employment Discrimination Law - [G.L. c. 151B, 4, ¶ 16](#)

This law prohibits any employer in Massachusetts who employs six or more people from firing, refusing to hire or rehire, or otherwise discriminating against a qualified disabled person on the basis of disability. A “qualified” disabled person must be able to perform the essential functions of the job, with or without a reasonable accommodation. “Reasonable accommodation,” such as a flexible work schedule or providing a reader, are adjustments an employer must make to enable a person with a disability to do a job. These accommodations are at the employer’s expense as long as they do not create an undue hardship.

Enforcement:

Massachusetts Commission Against Discrimination (MCAD) is the enforcement agency for the statute. A complaint must be filed at an MCAD office within 300 days of the discriminatory act:

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice); (617) 994-6196 (TTY)

or

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145.

Website: <http://www.mass.gov/mcad>





7. Equal Rights

Americans with Disabilities Act - [42 U.S.C. § 12101, et seq.](#)

The Americans with Disabilities Act (ADA) provides a comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The individual parts of the law are discussed in the corresponding subject matter sections of this booklet. Specifically, in the following areas:

- Employment, Title I, see Section 6 of this chapter,
- State and municipal government activities, Title IIA, see Section 10 of this chapter,
- Transportation, Title IIB, see Section 3 of this chapter,
- Public accommodations, Title III, see Section 10 of this chapter, and
- Telecommunications Title IV, see Section 12 of this chapter.

The particular parts of the law became effective on various dates during the 1990's.

Massachusetts Constitutional Amendment - [Article 114](#)

The Massachusetts Constitution states:

“No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity within the Commonwealth.”

Article 114 is broadly written. It prohibits discrimination on the basis of disability on any level within the state, not just for recipients of state or federal funds. For example, town meetings must be held in an accessible place with sign language interpreters provided if needed, and a small grocery store or a privately owned dinner theater can't refuse to do business on the basis of a person's disability.

Enforcement: Enforcement of this Amendment is through the courts. If an individual feels his or her rights have been violated under Article 114, contact the Massachusetts Office on Disability. If a resolution can not be reached, MOD will help the individual file a complaint with the Civil Rights Division of the Office of the Attorney General.

Website: <http://www.mass.gov/dph/fch/index.htm>

Massachusetts Equal Rights Law - [G.L. c. 93 § 103](#)

Implementing Article 114 to the Massachusetts Constitution, the equal rights law guarantees persons with disabilities (with reasonable accommodation) the same rights as other persons, such as the rights to contract, to inherit, to purchase, to lease, to sell, to participate in law suits and to receive the full benefit of the law.

Enforcement: Complaints of violation of the equal rights law are made by filing a law suit in the superior court. Individuals who win their complaints are entitled to reimbursement for their reasonable attorney fees.





Massachusetts Executive Order 478 – [EO 478](#)

Executive Order 478, signed in January of 2007, renews the Commonwealth's commitment to equal rights for all. It prohibits discrimination and mandates affirmative action to ensure equal opportunity for people with disabilities by the Executive Branch of Massachusetts Government. The requirements of this Order apply to State executive agencies' internal policies and practices, such as employment and the granting of licenses, and apply as well to recipients of state funding, including contract and grant recipients such as municipalities. Each agency under an executive office must create an affirmative action plan, which includes goals and methodology for the placement of people with disabilities in the state's work force. All state employment, services and facilities should be accessible and non-discriminatory on the basis of disability. Some examples of programs and activities that must comply with EO 478 include: employment and training services, health care facilities licensed or chartered by the state, private educational institutions licensed or chartered by the state and those which receive state assistance or participate in state programs, or a person, corporation, or business which is licensed or chartered by the state.

Enforcement: Responsibilities for carrying out the requirements of Executive Order 478 are divided among different agencies: Office of Diversity and Equal Opportunity (ODEO), the Massachusetts Commission Against Discrimination (MCAD) and the Massachusetts Office on Disability (MOD).

Complaints under EO 478 should be addressed to the ADA/504 Coordinator for the Executive Branch Entity involved. If that does not satisfactorily correct the problem, contact the entities below for assistance:

For Employment:

Office of Diversity and Equal Opportunity

One Ashburton Place, #213
Boston, MA 02108 (617) 727-7441 (Voice), (617) 727-6015 (TTY)

Website: <http://www.mass.gov/hrd>

Or

Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601, Boston, MA 02108
(617) 994-6000 (Voice), (617) 994-6196 (TTY) or
436 Dwight St., #220, Springfield, MA 01103
(413) 739-2145.

Website: <http://www.mass.gov/mcad>

For All Other Complaints:

Massachusetts Office on Disability

One Ashburton Place, #1305
Boston, MA 02108
617- 727-7440

Website: <http://www.mass.gov/mod>





U.S. Rehabilitation Act - 29 U.S.C. § 791 et seq.

In 1973, Congress passed the Rehabilitation Act in a national effort to end discrimination on the basis of disability by agencies and organizations, which receive or benefit from federal financial assistance. The five major components to the Rehabilitation Act of 1973, as amended, are:

- Section 501 – Employment by the Federal Government,
- Section 502 – Architectural and Transportation Barriers Compliance,
- Section 503 – Employment by Federal Contractors,
- Section 504 – Entities Receiving Federal Funds,
- Section 508 – Access to Technology.

Section 505 contains complaint procedures and remedies available to a complainant under 501 and 504. Among other remedies, it allows a court to award reasonable attorney's fees to a plaintiff who prevails in a discrimination case.

Massachusetts Provision of Sign Language Interpreters In Court Proceedings - G.L. c. 221, § 92A

When a deaf or hearing impaired person is a party or a witness, this law entitles the person to have a qualified interpreter in any court proceeding, juvenile proceeding, or proceeding before an executive or legislative board, commission, agency, or any other body of the state or its political subdivisions. This law also entitles a deaf or hearing impaired person to have an interpreter during any proceeding which follows an arrest such as notification of rights, warnings, interrogation, or taking of a statement. The interpreter must be approved by the Massachusetts Commission for the Deaf and Hard of Hearing

For More Information: To hire an interpreter or for more information on the law contact:

Mass. Commission for the Deaf & Hard of Hearing

150 Mt. Vernon St. Suite 550

Boston, MA 02125

(617) 740-1600 (Voice), (617) 740-1700 (TTY)

Website: <http://www.mass.gov/mcdhh/>

For interpreter referral:

(800) 882-1155 (Voice), (800) 530-7570 (TTY)





7. Hate Crimes

Several Massachusetts laws address actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by disability based prejudice. It includes acts that deprive another person of his constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation. These are generally referred to as "hate crimes." [G.L. c. 22C, § 32.](#)

Violations of Constitutional Rights; Criminal Penalties - [G.L. c. 265 § 37](#)

Massachusetts law makes the following a crime:

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States.

Any person convicted of violating this provision may be fined up to one thousand dollars or imprisoned not more than one year or both. If bodily injury results, the punishment may be increased to a fine of up to ten thousand dollars or by imprisonment for up to ten years, or both.

Assault or Battery for Purpose of Intimidation; Weapons; Criminal Penalties - [G.L. c. 265 § 39](#)

(a) An assault or a battery upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's disability is a crime.

Punishable by a fine of up to five thousand dollars or by imprisonment in a house of correction for up to two and one-half years, or by both, a court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owner.

(b) A battery in violation of this section and which results in serious bodily injury is punishable by a fine of up to ten thousand dollars or by imprisonment in the state prison for up to five years, or by both. If the offender is armed with a firearm, rifle, shotgun, machine gun or assault weapon, punishment may be increased to imprisonment in the state prison for up to ten years or in the house of correction for not more than two and one-half years. There is also a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section. The surcharge goes to the Diversity Awareness Education Trust Fund. In the case of convictions for multiple offenses, the surcharge is assessed for each conviction.

A person convicted of a battery under (b) section must also complete a diversity awareness program designed by the secretary of the Executive Office of Public Safety in consultation with the Massachusetts Commission Against Discrimination and approved by the Chief Justice for Administration and Management of the Trial Court. The program must be completed prior to release from incarceration or prior to completion of the terms of probation, whichever applies.





Civil Actions By Attorney General For Violations Of Constitutional And Legal Rights - [G.L. c.12, § 11H](#)

The attorney general may bring a civil law suit to protect the peaceable exercise or enjoyment of the right or rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth. This type of law suit is filed in Superior Court and must be based on evidence that a person or persons attempted to or actually interfered by threats, intimidation or coercion, with the exercise or enjoyment of civil rights by any other person or persons.

Enforcement:

Massachusetts Office of the Attorney General

Civil Rights Section
100 Cambridge Street
Boston, MA 02108
(617) 727-2200

Website: <http://www.ago.state.ma.us>

Civil Damages for Civil Rights Violations - [G.L. 266, § 127B](#)

Any person incurring injury to his person or damage or loss to his property as a result of conduct in violation of section 39 of chapter 265, above, is entitled to file a civil law suit to ask the court to stop the violations and to obtain special and general damages, reasonable attorney fees and costs against the person whose conduct has violated section 39. Parents and legal guardians of unemancipated minor children are liable for any judgment rendered against such minor under the provisions of this section.

Enforcement:

Individuals may file private law suits.





8. Housing

- See also [ZONING](#)

U.S. Fair Housing Act - [42 U.S.C. §§ 3535 & 3601-3620](#)

The Act extends civil rights protection to individuals with disabilities by prohibiting discrimination based on disability. Owner-occupied housing with four or fewer units is exempt from this requirement. It is unlawful to refuse to allow a person with a disability to make reasonable modifications at his/her expense in order to fully use the premises. Tenants may be required to remove modifications and return the unit to the original condition upon moving. All new multi-family units, rental units and condominiums, in complexes of four or more units, available for first occupancy after March 13, 1991, have to be "Adaptable." Adaptable units include features such as wide doorways, low outlets, reinforcements in walls for grab bars, usable bathrooms and kitchens) if there is an elevator in the building. If there is no elevator, only the ground floor units must be adaptable. All public and common areas have to be accessible.

Enforcement:

U.S. Department of Housing and Urban Development

U.S. Office of Fair Housing and Equal Opportunity

O'Neil Building

10 Causeway Street, #321

Boston, MA 02222

(617) 994-8300 (Voice) (617) 565-5453 (TTY)

(800) 827-5005 (Voice) - Toll Free in Massachusetts

(800) 669-9777 (Voice) - Toll free in US

(617) 565-7313 FAX

Website: <http://www.hud.gov/disabled.html>





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Massachusetts Housing Bill of Rights - [G.L. c. 151B § 4](#)

This law has the same protection as the federal law, but only exempts owner-occupied, two-family units from coverage. It is illegal for a landlord to ask about a person's disability except to ask about qualifications for a special type of unit ("Do you have a condition that qualifies you for a wheelchair accessible unit?"). Only medical opinions which address qualifications for a particular unit may be sought ("Does Jane Doe have a condition that qualifies her for a unit for people with mental retardation?"). If there are 3 or more units, changes must be made to rules or policies if these changes are needed for a person with a disability to use or enjoy the premises. A person with a disability may make reasonable modifications to the premises at his/her own expense.

In publicly assisted housing, or housing with 10 or more units, the landlord is responsible for paying for reasonable modifications unless they would impose an undue hardship. The law also requires that new construction of housing with 3 or more units ready for first occupancy after March 13, 1991 be adaptable consistent with AAB regulations and the Fair Housing Act Amendment Guidelines. The Massachusetts Rehabilitation Commission administers a central registry to match accessible and adaptable housing units with persons who need them. Local Independent Living Centers can provide access to the Registry. Access the internet at: <http://209.58.162.66/registry/registrymax.nsf/webpages/home?open>

Enforcement:

Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice); (617) 994-6196 (TTY)

Or

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145.

Website: <http://www.mass.gov/mcad>

U.S. Pet Law - [12 U.S.C. §1701 r-l](#); [24 C.F.R. §5.300, et seq.](#)

This law allows persons with disabilities and persons who are elderly living in federally assisted non-family rental housing to own or keep common household pets (dogs, cats, birds, rabbits, fish or turtles). Owners and managers may make reasonable rules for the keeping of pets and may require a pet deposit. See also Massachusetts Public Accommodations Law, Section 10 of this Chapter.

Enforcement:

U.S. Department of Housing and Urban Development

U.S. Office of Fair Housing and Equal Opportunity

10 Causeway Street, #321,
Boston, MA 02222
(617) 994-8300 (Voice), (617) 565-5453 (TTY) (800) 827-5005 (Voice)

Website: <http://www.hud.gov/disabled.html>





Massachusetts Property Tax Exemptions - [G.L. c. 59, § 5](#)

Clause 37 provides an exemption of \$437.50 of property taxes to legally blind persons who own and occupy their own property. Applications must be made annually. The Commonwealth will reimburse the municipality \$87.50 for each exemption. Clause 37A increases the exemption to \$500, but is a local option: vote of Town Meeting (towns) or City Council (cities) must adopt it. Clauses 22, 22A, 22B, 22C and 22E apply to veterans with varying levels of disability (the greater the disability, the larger the exemption).

For more information contact:

Massachusetts Department of Revenue

Consumer Service Bureau

P.O. Box 7010,

Boston, MA 02204

(617) 626-2300 & (800) 521-5536 Voice; (617) 887-6140 TTY

Website: <http://www.mass.gov/dor>

Massachusetts Homestead Protection Act - [G.L. c. 188, §1A](#)

With some exception, the real property or manufactured home of a person with a disability can be protected against attachment, seizure or execution of a court judgment up to a value of \$500,000. The owner must occupy, or intend to occupy, the real property or manufactured home as his or her principal residence, and he or she must file a disabled person's declaration of homestead protection, along with proof of disability.

For further information contact either the city or town clerk or the Massachusetts Registry of Deeds for the area in which the property is located

Website: <http://www.sec.state.ma.us/rod/roddom/homidx.htm>





9. Public Places & Programs

Americans with Disabilities Act

State and Local Government, Title IIA - [42 U.S.C. § 12131, et seq.](#)

Effective January 26, 1992, state, local and municipal governments must provide equal opportunity for persons with disabilities in programs, activities, services and employment practices. People using service animals must be allowed equal access. Effective communication must be ensured with persons who are deaf, hard of hearing and blind or who have cognitive disabilities through provision of auxiliary aids and services. Remedying actions might include the provision of sign language interpreters, the distribution of material in large print, Braille or audio tape, holding meetings and hearings in accessible locations and ending discriminatory hiring practices. Under a concept called “programmatically access,” every part of every facility need not necessarily be accessible. Instead, the programs, activities and services when viewed in their entirety must be readily accessible to and usable by persons with disabilities.

Enforcement: Complaints must be filed within 180 days of the alleged discriminatory act.

U.S. Department of Justice, Office on the Americans with Disabilities Act

Civil Rights Division, 950 Pennsylvania Ave., NW, Washington, D.C. 20530

(202) 514-0301 or (800) 514-0301 (Voice) (800) 514-0383 (TTY)

Website: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Individuals may also file private lawsuits.

Public Accommodations, Title III, Open to the Public - [42 U.S.C. § 12181, et seq.](#)

Public accommodations such as restaurants, retail stores, parks, day care centers and homeless shelters, may not discriminate on the basis of disability, effective January 26, 1992.

Public accommodations must make reasonable modifications in policies, practices and procedures, unless the modifications would fundamentally alter the nature of the goods or services. Such modifications must include waiving any “no animals” policy to allow guide dogs and service animals to accompany their owner with a disability. Physical barriers in existing facilities must be removed if readily achievable (easily accomplishable and able to be carried out without much difficulty or expense). If not, alternative readily achievable methods of providing services must be offered. Auxiliary aids and services must be provided to individuals with vision or hearing impairments, unless an undue burden would result.

Enforcement: Complaints must be filed within 180 days of the alleged discriminatory act.

U.S. Department of Justice, Office on the ADA, Civil Rights Division, Disability Rights Section

950 Pennsylvania Ave., NW

Washington, D.C. 20530

(202) 514-0301, (800) 514-0301 (Voice), (800) 514-0383 (TTY)

Website: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Individuals may also file private lawsuits.





U.S. Rehabilitation Act: Entities Receiving Federal Funds, Section 504 - [29 U.S.C. § 794 et seq.](#)

This section prohibits discrimination against people with disabilities under any program or activity receiving or benefiting from federal financial assistance. It states that:

"No otherwise qualified handicapped individual in the United States ... shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Organizations, such as colleges, public schools, libraries, hospitals, or cultural programs, which receive or benefit from federal financial funds, must provide equal opportunity for people with disabilities in their programs and activities. Remedying actions might include the provision of sign language interpreters, the distribution of material in large print or Braille or moving a class to a physically accessible location. Every part of every building need not necessarily be accessible, but the program, when viewed in its entirety must not discriminate against or segregate persons with disabilities.

Some examples of compliance with Section 504 may include:

- A hospital which receives Medicaid money must provide a qualified interpreter to someone who is deaf when communication is necessary. A hospital also must provide the use of a TTY (telephone communication device for the deaf) to a deaf person who requires one to communicate on the telephone.
- A school or college which receives federal financial assistance cannot decline an application on the basis of a person's disability. All programs and classes must be made available. For example, a class must be moved to an accessible location on campus if a person with a mobility impairment wants to attend, a qualified interpreter must be provided if one is needed for a deaf person to understand the instructor, a note taker, large print books or books on tape must be provided to a student who needs it because of his/her disability or extra time must be provided to complete a test.
- If a museum which receives federal funds conducts an arts program in an inaccessible location, the museum must make sure the same program is offered in an accessible place.





Enforcement: Federal agencies, such as the Department of Education and the Department of Housing and Urban Development, have developed regulations under Section 504. Each federal agency providing the financial assistance is responsible for establishing an enforcement procedure. Some of the larger department contacts are:

**U.S. Department of Education
Office of Civil Rights**

33 Arch Street, Suite 900
Boston, MA 02110-1491
(617) 289-0111 (Voice) or (877) 521-2172 (TTY)

**U.S. Department of Health and Human Services
Office of Civil Rights**

JFK Federal Building, Room 1875
Boston, MA 02203
(617) 565-1340

**U.S. Department of Housing and Urban Development
U.S. Office of Fair Housing**

Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 321
Boston, MA 02222-1092
(617) 994-8300 (V) (617) 565-5453 (TTY)

To find out which other agency would handle a particular type of complaint, contact:

**U.S. Department of Justice
Civil Rights Division**

950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
(800) 514-0301 (Voice) or (800) 514-0383 (TTY)

Website: www.ada.gov

It may also be enforced through private law suits.





Massachusetts Public Accommodations Law - [G.L. c. 272, §§ 92A and 98](#)

Discrimination in places of public accommodation on the basis of disability is prohibited. This is defined as any place, which is open to and accepts the general public. The law prohibits discrimination not only in terms of building access but also in terms of business or services. For example, a bank cannot refuse to grant a loan to someone based on his/her disability and a hotel cannot exclude someone who uses a personal care attendant from a room. This law also prohibits discrimination against a blind, deaf or hard of hearing person, or any other person with a disability who uses a support or guide dog. At one time, this law allowed operators of public accommodations to require that a guide or service animal be muzzled and to demand special identification of service animals. As these provisions violated the Americans with Disabilities Act, they were repealed in 2000 and 2004, respectively.

Enforcement: A complaint must be filed within 300 days of the alleged act at the

Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice) (617) 994-6196 (TTY)

Or

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145.

Website: <http://www.mass.gov/mcad>





10. Service Animals

Massachusetts Service Animal Law - [G.L. c. 272, §§ 92A and 98A](#)

Any person with a disability accompanied by a guide or service animal is entitled to any and all accommodations, advantages, facilities and privileges of all public conveyances, public amusements and places of public accommodation, within the Commonwealth, to which others not accompanied by dogs are entitled, subject only to the conditions and limitations applicable to all persons not accompanied by dogs. People training service animals are also protected. No service animal user may be required to pay any charge or fare for the service animal in addition to those lawfully chargeable for the user's own travel.

Enforcement: Violation of this law is punishable by a fine of not more than three hundred dollars, and the service animal user is entitled to damages. Complaints must be filed within 300 Days at

Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601, Boston, MA 02108
(617) 994-6000 (Voice); (617) 994-6196 (TTY)
Or
436 Dwight St., #220, Springfield, MA 01103
(413) 739-2145

Website: <http://www.mass.gov/mcad>

Service Animal Training Laws

There are three laws in Massachusetts that directly address service animal training:

General - [G.L. c. 129, § 39F](#)

A person accompanied by and engaged in the raising or training of a service dog, including a hearing, guide or assistance dog, shall have the same rights, privileges and responsibilities as those afforded to an individual with a disability under the Americans with Disabilities Act, 42 U.S.C. sections 12101 et seq.

For more information, contact MOD at the phone number on the cover of this booklet.

Hearing Dogs - [G.L. c. 129 § 39D](#)

A person engaged in the hearing dog business, while actually engaged in the training process and activities of hearing dogs, shall have the same rights, privileges and responsibilities with respect to access to public facilities as those applicable to deaf persons.

For more information contact the:

Massachusetts Commission for the Deaf and Hard of Hearing

150 Mount Vernon Street, Fifth Floor
Dorchester, MA 02125
Website: <http://www.mass.gov/mcdhh>





Hearing Dog Business Licensing - [G.L. c. 129, § 39C](#)

People engaged in the hearing dog business must be licensed. A hearing dog shall, for identification purposes, be fitted with a collar and leash which are of a bright color.

For more information, contact the Massachusetts Commission for the Deaf and Hard of Hearing, above.

Massachusetts Fair Educational Practices Law - [G.L. c. 151C](#)

“Educational institutions” may not exclude any student from admission because the student is blind or deaf or requires the use of a dog guide. See also the [Education Section](#), above.

Enforcement: Complaints must be filed within six months of the alleged discrimination with:

Massachusetts Commission Against Discrimination

One Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice)
(617) 994-6196 (TTY)

Or

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145

Website: <http://www.mass.gov/mcad>





11. Telecommunication And Technology

U.S. Telecommunications Act - [47 U.S.C. § 225](#)

Originally enacted as part of the Americans with Disabilities Act, this law deals with telephone and television access for people with hearing and speech disabilities. Telephone companies must provide telecommunication Relay Services for people with hearing or speech impairments 24 hours a day, seven days a week, effective July 26, 1993. Relay Services enable callers who use telecommunication devices for the deaf (TTYs),³¹ and those who use voice telephones to communicate with each other through a third party communication assistant. The Federal Communication Commission has set minimum standards for Relay Services. [See 47 C.F.R. §§ 6 and 7](#) for details.

Federally funded television public service announcements and emergency announcements must include captioning of the verbal content. Video programming distributors under the jurisdiction of the Federal Communications Commission (FCC) must provide captioning for the lesser of an average of 1350 hours of captioned video programming or all of its new nonexempt video programming. As of January 1, 2006, and thereafter, 100% of the programming distributor's new nonexempt video programming must be provided with captions. [See 47 C.F.R. § 79.1, et seq.](#) for details.

Video description technology enables individuals to “hear what they cannot see” by providing verbal explanation of key visual elements in programming, inserted into natural pauses in the audio of programming. It is designed to make television programming more accessible to the many Americans who have visual disabilities. Under rules adopted by the FCC, broadcast stations and multi-channel video programming distributors must provide programming with video description. [47 C.F.R. § 79.3](#)

Enforcement:

Federal Communication Commission

445 12th Street, SW

Washington, DC 20554

[888]225-5322 Voice, or [888] 835-5322 TTY

Website: <http://www.fcc.gov/cgb/dro>

Individuals may bring private lawsuits.

³¹ This device is sometimes referred to as a TDD.





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U.S. Rehabilitation Act, Access to Technology: Section 508 - [29 U.S.C. § 794d, et seq.](#)

This section requires federal agencies to ensure that information technology that is developed, purchased or used is accessible to people with disabilities. This includes both federal employees and members of the public.

Enforcement:

U.S. General Services Administration Center for IT Accommodation (CITA)

1800 F Street, NW, Room 1234, MC:MKC

Washington, DC 20405-0001

[202] 501-4906 Voice; [202] 501-2010 TTY

Website: <http://www.section508.gov>

U.S. Architectural and Transportation Barriers Compliance Board

1331 F Street, NW, Suite 1000

Washington, D.C. 20004-1111

[800] 872-2253 Voice [800] 993-2822

Website: <http://www.access-board.gov>





12. Voting

U.S. Voting for the Elderly and Handicapped Act - [42 U.S.C. § 1973ee, et seq.](#)

In each state, political subdivisions responsible for conducting elections must assure that all polling places for federal elections are accessible to disabled and elderly voters.

Mass. Secretary of State, Election Division Regulations - 950 C.M.R. §51

In Massachusetts, the Elections Division of the Secretary of State's Office has written regulations that apply to site access, parking, entrances, voting equipment, etc. All municipalities are responsible for following these regulations. The position of the Massachusetts Attorney General is that state and municipal elections must also be accessible to persons with disabilities.

Enforcement: If the Elections Division is unable to achieve voluntary compliance, the matter is referred to the Civil Rights Division of the Attorney General's Office. Individuals can also bring an action for declaratory or injunctive relief in the appropriate district court.

Massachusetts Office of the Secretary of State, Elections Division

One Ashburton Place, Room 1705
Boston, MA 02108
(617) 727-2828 (800) 462-VOTE (800) 392-6090 (TTY)
FAX (617) 742-3238

Center Place
218 South Main Street, Suite 206
Fall River, MA 02721
(508) 646-1374 FAX (508) 646-1473

Or

436 Dwight Street, Room 102
Springfield, MA 01103
(413) 784-1376 FAX (413) 784-1379
Website: <http://www.mass.gov/sec/ele>





Help American Vote Act (HAVA) - [42 U.S.C. §15301](#), [§15545](#)

The Help America Vote Act (HAVA) was signed by President Bush in October 2002 in an effort to improve voting across the country and in response to the problems that arose in the 2000 presidential elections. This federal legislation makes changes in the election process and applies to all federal elections in the United States. The most significant areas impacted by the legislation include voting equipment standards, including accessibility, provisional voting, voter registration, and voter education.

HAVA requires that voting systems used after January 2006 be accessible to voters with disabilities, including voters with vision impairments, in a manner that provides the same opportunity for access and participation (including privacy and independence) as is provided for other voters.

Enforcement:

Same as Federal Voting for the Elderly and Handicapped Act, above.

For more information:

U.S. Election Assistance Commission

1225 New York Ave., Suite 1100
Washington, DC 20005
(202) 566-3100 FAX (202) 566-1392

Web site: <http://www.eac.gov>

OR

U.S. Department of Justice Voting Section, Civil Rights Division

Room 7254 - NWB
950 Pennsylvania Ave., N.W.
Washington, DC 20530
(800) 253-3931 or (202) 307-2767

Website: <http://www.usdoj.gov/crt/voting/hava/hava.html>





13. Wheelchairs

Massachusetts Wheelchair Lemon Law - [G.L. c. 93, §107](#)

Individuals who lease or purchase customized wheelchairs are entitled to have defects repaired or if not repairable refunds, plus interest paid. Failure to conform can result in the manufacture being fined double the cost to the consumer.

Enforcement:

Massachusetts Office of Consumer Affairs, Business Regulations

10 Park Plaza, Suite 5170

Boston, MA 02116

(617) 973-8700 (Voice), (617) 973-8790 (TTY)

Website: <http://www.mass.gov/consumer>

14. Zoning

Massachusetts Zoning Laws, Access Ramps - [G.L. c. 40A § 3 ¶8](#)

Access ramps used as an entrance or exit for a person with a disability take precedence over zoning lot size or set back requirements. The ramp must comply with AAB standards.

Massachusetts Zoning Laws, General and Community Residences - [G.L. c. 40A § 3 ¶4](#)

Local land use and health and safety provisions may not discriminate against persons with disabilities. Specific mention is made of community residences, which may only be subjected to restrictions that apply to all residential dwellings of a similar size.



VI. DISABILITY PRIMER

This Chapter is divided in to three sections:

- Disability Terminology
- Disability Etiquette
- Disability Access Symbols





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1. Disability Terminology

The disability community generally emphasizes the individuality of people with disabilities, not their disability. The term “handicapped” has fallen into disuse and should be avoided. However, it is still used in some Massachusetts statutes. The terms “able-bodied,” “physically challenged” and “differently abled” are also discouraged. The following are some recommendations:³²

Never use the article “THE” with an adjective to describe people with disabilities. The preferred usage, “people with disabilities,” stresses the essential humanity of individuals and avoids objectification. Alternatively, the term “disabled people” is acceptable, but still defines individuals as disabled, first, and people second.” The term “hearing impaired” should also be used with caution as it is perceived by many to be a term that implies that the individual is in some way “broken” and needs to be “fixed.” Instead, the term, “deaf or hard of hearing,” can be used.

Use:	People who are deaf People who are hard of hearing People who are deaf or hard of hearing
Not:	the deaf deaf-mutes deaf and dumb
Use:	People who are blind People with low vision People who have impaired vision
Not:	the visually impaired
Use:	People with disabilities
Not:	the disabled The handicapped

To refer to a person’s disability, choose the correct terminology for the specific disability. The following terms are examples of appropriate terms to describe people with disabilities.

People who are: blind, deaf, hard of hearing, mentally retarded. People with, or who have: vision impairments, Cerebral Palsy, Down Syndrome, paraplegia, quadriplegia, partial hearing loss, seizure disorder, specific learning disability, speech impairment, speech disability, people who are labeled as mentally ill.

³² Extracted, with compiler additions, from the University of North Carolina at Wilmington, Disability Services, “Disability Terminology,” <http://www.uncwil.edu/stuaff/SDS/disterm.html> (visited 11/1/02).





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Be careful not to imply that people with disabilities are to be pitied, feared or ignored, or that they are somehow more heroic, courageous, patient, or “special” than others. Never use the term “normal” in contrast.

Use:	Trina qualified for her “Swimmer” certificate.
Not:	Trina held her own while swimming with normal children.

A person in a wheelchair is a “wheelchair user” or “uses a wheelchair.” Avoid terms that define the disability as a limitation such as “confined to a wheelchair” or “wheelchair-bound.” A wheelchair liberates; it doesn’t confine.

Never use the terms “victim” or “sufferer” to refer to a person who has had a disease or disability. This term dehumanizes the person and emphasizes powerlessness.

Use:	person with HIV/AIDS
Not:	victim of AIDS or AIDS sufferer.

Use:	had polio
Not:	polio victim





2. Disability Etiquette

a. General Etiquette³³

- When talking with a person with a disability, speak directly to that person rather than to a companion or sign language interpreter who may be present.
- When introduced to a person with a disability, it is appropriate to offer to shake hands. People with limited hand use or who wear an artificial limb can usually shake hands. Shaking hands with the left hand is an acceptable greeting.
- When meeting a person with a visual impairment, always identify yourself and others who may be with you. When conversing in a group, remember to identify the person to whom you are speaking.
- If you offer assistance, wait until the offer is accepted. Then listen to or ask for instructions.
- Treat adults as adults. Address people who have disabilities by their first names only when extending that same familiarity to all others present. Never patronize people who use wheelchairs by patting them on the head or shoulder.
- Leaning or hanging on a person's wheelchair is similar to leaning or hanging on a person and is generally considered annoying. The chair is part of the personal body space of the person who uses it.
- Listen attentively when you're talking with a person who has difficulty speaking. Be patient and wait for the person to finish, rather than correcting or speaking for that person. If necessary, ask short questions that require short answers, a nod, or a shake of the head. Never pretend to understand if you are having difficulty doing so. Instead, repeat what you have understood and allow the person to respond. The response will clue you in and guide your understanding.
- When speaking with a person in a wheelchair or a person who uses crutches, place yourself at eye level in front of the person to facilitate the conversation.

³³ Excerpted, with compiler revisions, from a list compiled from many sources by Karen Meyer of the National Center for Access Unlimited, a joint venture of the United Cerebral Palsy Association, Inc. and Adaptive Environments Center, Inc.
<http://www2.ucsc.edu/ada/ADAhints.html> (visited 10/31/02).





- To get the attention of a person who is deaf or hard of hearing, tap the person on the shoulder or wave your hand. Look directly at the person and speak clearly. Not all people who are deaf or hard of hearing can speechread. For those who do speechread, be sensitive to their needs by placing yourself facing the light source and keeping your mouth and face visible and unobstructed when speaking.
- Relax. It's okay if you happen to use accepted, common expressions, such as "See you later" or "Did you hear about this," that seem to relate to the person's disability.

a. Sensitivity to Blindness and Visual Impairments³⁴

The following points of etiquette are helpful to keep in mind when interacting with a person who is blind or visually impaired.

- Introduce yourself to people who are blind or visually impaired using your name and/or position, especially if you are wearing a name badge containing this information.
- Speak directly to people who are blind or visually impaired, not through a companion, guide, or other individual.
- Speak to people who are blind or visually impaired using a natural conversational tone and speed.
- Address people who are totally blind or severely visually impaired by name when possible. This is especially important in crowded areas.
- Immediately greet people who are blind or visually impaired when they enter a room or a service area. This allows you to let them know you are present and ready to assist. It also eliminates uncomfortable silences.
- Indicate the end of a conversation with a person who is totally blind or severely visually impaired to avoid the embarrassment of having them continue speaking when no one is actually there.
- Feel free to use words that refer to vision during the course of conversations with people who are blind or visually impaired. Vision-oriented words such as *look*, *see*, and *watching TV* are a part of everyday verbal communication. The words *blind* and *visually impaired* are also acceptable in conversation.

³⁴ Excerpted with compiler edits from American Foundation for the Blind, Information Center, "Sensitivity to Blindness and Visual Impairments," http://www.afb.org/info_document_view.asp?documentid=911 (visited 11/1/02).





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- Be precise and thorough when you describe individuals, places, or things to people who are totally blind. Don't leave things out or change a description because you think it is unimportant or unpleasant. It is also important to refer to specific people or items by name or title instead of general terms like "you", or "they" or "this."
- Feel free to use visually descriptive language. Making reference to colors, patterns, designs, and shapes is perfectly acceptable.
- Speak about a person with a disability by first referring to the person and then to the disability. Refer to "people who are blind" rather than to "blind people."
- Offer to guide people who are blind or visually impaired by asking if they would like assistance. Offer them your arm. It is not always necessary to provide guided assistance; in some instances it can be disorienting and disruptive. Respect the desires of the person you are with.
- Guide people who request assistance by allowing them to take your arm just above the elbow when your arm is bent. Walk ahead of the person you are guiding. Never grab a person who is blind or visually impaired by the arm and push him/her forward.
- Guide dogs are working mobility tools. Do not pet them, feed them, or distract them while they are working.
- Do not leave a person who is blind or visually impaired standing in "free space" when you serve as a guide. Always be sure that the person you guide has a firm grasp on your arm, or is leaning against a chair or a wall if you have to be separated momentarily.
- Be calm and clear about what to do if you see a person who is blind or visually impaired about to encounter a dangerous situation. For example, if a person who is blind is about to bump into a stanchion in a hotel lobby, calmly and firmly call out, "Wait there for a moment; there is a pole in front of you."





c. Interacting with people who have speech disabilities³⁵

There are a variety of disabilities, such as stroke, cerebral palsy, and deafness that may involve speech impairments. People with speech disabilities communicate in many different ways.

- People who have speech disabilities may use a variety of ways to communicate. The individual may choose to use American Sign Language, write, speak, use a communication device, or a combination of methods. Find out the person's preferred method and use it.
- Be appropriate when speaking with a person with a speech disability. Never assume that the person has a cognitive disability just because he or she has difficulty speaking.
- Move away from a noisy source and try to find a quiet environment for communicating with the person.
- If the person with a speech disability has a companion or attendant, talk directly to the person. Do not ask the companion about the person.
- Listen attentively when you are talking with a person who has difficulty speaking. Be patient and wait for the person to finish, rather than correcting or speaking for the person. If necessary, ask short questions that require short answers, a nod, or shake of the head.
- If you do not understand what the person has said, do not pretend that you did. Ask the person to repeat it. Smiling and nodding when you have no idea what the person said is embarrassing to both parties. Instead, repeat what you have understood and allow the person to respond.
- When you have difficulty conversing on the telephone with the person, suggest the use of a speech-to-speech relay service so that a trained professional can help you communicate with the person. Either you or the person can initiate the call free of charge via the relay service.
- If the person uses a communication device, make sure it is within his or her reach. If there are instructions visible for communicating with the person, take a moment to read them.
- Do not make assumptions about what a person can or cannot do based on his disability. All people with disabilities are different and have a wide variety of skills and personalities.

³⁵ Excerpted with compiler edits from University of Kentucky, Engaging Differences Project, "Etiquette: Someone who has a Speech Impairment," http://www.uky.edu/TLC/grants/uk_ed/interactiontips6.html (visited 11/1/02).





3. Disability Access Symbols



Access to Low Vision³⁶

This symbol may be used to indicate access for people who are blind or have low vision, including: guided tours, paths to a nature trail, scent gardens in a park, tactile tours or museum exhibitions that may be touched.



Accessibility Symbol³⁷

The wheelchair symbol should only be used to indicate access for individuals with limited mobility, including wheelchair users. For example, the symbol is used to indicate accessible entrances, bathrooms, or telephones that have been lowered for wheelchair users. Remember that a ramped entrance is not completely accessible if there are no curb cuts, and an elevator is not accessible if it can only be reached via steps.



Accessible Print³⁸

The symbol for large print is 'Large Print' printed in 18 Point or larger text. In addition to indicating that large print versions of books, pamphlets, museum guides and theater programs are available, the symbol may be used on conference or membership forms to indicate that print materials may be provided in large print. Sans serif or modified serif print with good contrast is highly recommended, and special attention should be paid to letter and word spacing.



Assistive Listening Systems³⁹

These systems transmit sound via radio waves, infrared lights, or direct coupling with a person's hearing aid or microphone. They include infrared, loop, hard wired and FM systems. Portable systems may be available from the same audiovisual equipment suppliers that service conferences and meetings.

³⁶ Excerpted with compiler additions from Graphic Artists Guild, "Disability Access Symbols," (symbols available in downloadable files from this site), <http://www.gag.org/resources/das.php> (visited 11/1/02).

³⁷ Id.

³⁸ Id.

³⁹ Id.

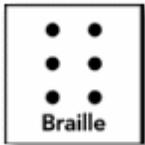




Audio Description, also called Video Description.⁴⁰

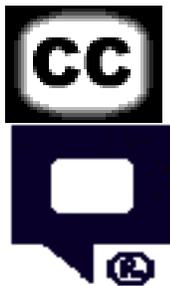


There are 2 symbols that are used for this service that makes television, video, film, and live performances more accessible for persons who are blind or have low vision. For televisions and monitors, descriptions of visual elements are provided by a trained Audio Describer using the Secondary Audio Program (SAP).



Braille Symbol⁴¹

This symbol indicates that printed matter is available in Braille, including exhibition labeling, publications, and signage.



Closed Captioning⁴²

These symbols indicate that a television program or videotape is closed captioned. The “CC” (with or without the rounded rectangle surrounding it) is generic and can be used by any company. The second icon that looks like a comic strip speech “balloon” (a rounded rectangle with a small “tail” protruding below) is a registered service mark of the National Captioning Institute (NCI), and is only used for productions that are captioned by NCI.

⁴⁰ Excerpted with compiler additions from Graphic Artists Guild, “Disability Access Symbols,” (symbols available in downloadable files from this site), <http://www.gag.org/resources/das.php> (visited 11/1/02).

Second graphic (“D” with radiating arcs) from WGBH, Services for Hire, “Access Symbols,” <http://main.wgbh.org/wgbh/hire/symbols.html> (visited 11/1/02).

⁴¹ From Graphic Artists Guild, “Disability Access Symbols,” (symbols available in downloadable files from this site), <http://www.gag.org/resources/das.php> (visited 11/1/02).

⁴² Excerpted with compiler additions from Closed Captioning FAQ, “Closed Captioning Overview: Why are there different icons to denote captioned programs?” <http://www.robson.org/capfaq/overview.html#icons> (visited 11/1/02).





Sign Language Interpretation⁴³

The symbol indicates that sign language interpretation is provided for lectures, tours, performances, conferences, or other programs.



TTY (Teletypewriter)⁴⁴

TTYs are also known as text telephones (TTs), or telecommunications devices for the deaf (TTYs). The TTY symbol indicates that TTYs are available.



Volume Control Telephone⁴⁵

This symbol indicates that telephone handsets with amplified sound and/or adjustable volume controls are available.



Web Access⁴⁶

This symbol appears on web sites that have been designed with accessibility features. The symbol should always be used with the following alt-text tag: Web Access Symbol (for people with disabilities).

⁴³ From Graphic Artists Guild, "Disability Access Symbols," (symbols available in downloadable files from this site), <http://www.gag.org/resources/das.php> (visited 11/1/02).

⁴⁴ Excerpted with compiler additions from Graphic Artists Guild, "Disability Access Symbols," (symbols available in downloadable files from this site), <http://www.gag.org/resources/das.php> (visited 11/1/02).

⁴⁵ Id.

⁴⁶ Excerpted from WGBH, Service for Hire, "Access Symbols," <http://main.wgbh.org/wgbh/hire/symbols.html> (visited 11/4/02).





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VII. APPENDICES

There are five Appendices

- **Text of Executive Order 478**
- **Joint Open Meetings Letter from the Attorney General and the Director of the Office on Disability**
- **Massachusetts Accessibility Links**
- **Partial List of Civil Rights Enforcement agencies based in the Boston Area**
- **Massachusetts Disability Based Standards for the Executive Branch Entities**





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A. Text of Executive Order 478

By His Excellency

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 478

**ORDER REGARDING NON-DISCRIMINATION, DIVERSITY,
EQUAL OPPORTUNITY, AND AFFIRMATIVE ACTION**

(Revoking Executive Order 452)

WHEREAS, the Constitution of the Commonwealth of Massachusetts is based on a belief in freedom and equality for all individuals and in the duty of Government to safeguard and foster these rights;

WHEREAS, the Executive Branch of the Commonwealth of Massachusetts recognizes the importance of non-discrimination, diversity, and equal opportunity in all aspects of state employment, programs, and activities;

WHEREAS, creating a culture of inclusion that values and promotes diversity and equal opportunity for all individuals is the central objective of this Executive Order and the goal of my administration;

WHEREAS, while acknowledging the many efforts and accomplishments of the past, the Commonwealth can and must do more to ensure that non-discrimination, diversity and equal opportunity are safeguarded, promoted, and reflected in state workplaces, decisions, programs, activities, services, and contracts;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, do hereby revoke Executive Order 452 and order as follows:

Section 1. This Executive Order shall apply to all state agencies in the Executive Branch. As used in this Order, "state agencies" shall include all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established.





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Section 2. Non-discrimination, diversity, and equal opportunity shall be the policy of the Executive Branch of the Commonwealth of Massachusetts in all aspects of state employment, programs, services, activities, and decisions. Each executive officer and Executive Branch Entity head serving under the Governor, and all state employees, shall take immediate, affirmative steps to ensure compliance with this policy and with applicable federal and state laws in connection with both the internal operations of state government as well as their external relations with the public, including those persons and organizations doing business with the Commonwealth. Each Executive Branch Entity, in discharging its duties, shall consider the likely effects that its decisions, programs, services, and activities will have on achieving non-discrimination, diversity, and equal opportunity.

Section 3. All state agencies shall develop and implement affirmative action and diversity plans to identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms, and conditions of state employment. Such plans shall set forth specific goals and timetables for achievement, shall comply with all applicable state and federal laws, and shall be updated, at a minimum, every two years.

Section 4. All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. Equal opportunity and diversity shall be protected and affirmatively promoted in all state, state-assisted, and state-regulated programs, activities, and services. Non-compliance shall subject violators to such disciplinary or remedial actions as permitted by law. This provision applies, but is not limited to, the use and operation of facilities owned, leased, funded or subject to control by the Commonwealth; the sale, lease, rental, financing, construction, or development of housing; state-licensed or chartered health care facilities, educational institutions, and businesses; education, counseling, and training programs; and public schools.

Section 5. All Executive Branch contracts entered into after the effective date of this Order shall contain provisions prohibiting contractors and subcontractors from engaging in discriminatory employment practices; certifying that they are in compliance with all applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and committing to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. Such provisions shall be drafted in consultation with the Office of the Comptroller and the Operational Services Division (OSD), which shall develop and implement uniform language to be incorporated into all Executive Branch contracts. The





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provisions shall be enforced through the contracting Executive Branch Entity, the Operational Services Division and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

Section 6. All state agencies shall exclude from any forms requesting information any item or inquiry expressing or soliciting specifications as to race, color, creed, religion, national origin, ethnicity, gender, age, sexual orientation, or disability, unless the item or inquiry is expressly required by statute or is deemed by the Massachusetts Commission Against Discrimination, the Massachusetts Office on Disability, the Human Resources Division, or the Office of Diversity and Equal Opportunity to be a bona fide qualification or otherwise required in good faith for a proper purpose.

Section 7. The Office of Diversity and Equal Opportunity (“ODEO”), as presently established within the Human Resources Division of the Administration and Finance Secretariat, shall be responsible for ensuring compliance with this Executive Order and with all applicable state and federal laws. ODEO shall have a Director (the “Director”), who shall be selected by and serve at the pleasure of the Governor. The Director shall report to the Commonwealth’s Chief Human Resources Officer and submit periodic written reports to the Governor. The Director shall have the authority to:

- Establish guidelines for Executive Branch Entity affirmative action and diversity plans (“plans”);
- Review all such plans and either approve, return for amendment, or reject them;
- Establish periodic reporting requirements for agencies concerning the implementation of their plans and all actions taken to ensure compliance with this Executive Order and applicable state and federal laws;
- Provide assistance to agencies in achieving compliance with their plans and with applicable federal and state laws;
- Monitor and assess the status of Executive Branch Entity compliance and investigate instances of non-compliance; and
- Where appropriate, determine and impose remedial courses of action, including the potential imposition of a freeze on all personnel requisitions and appointment forms submitted by any non-compliant Executive Branch Entity to the Chief Human Resources Officer.





The Disability Handbook



Section 8. Each Secretariat shall appoint a Diversity Director. Each Executive Branch Entity shall appoint a Diversity Officer. Diversity Directors and Officers shall have a direct reporting relationship to their Secretary or Agency head; shall also report to the Director of ODEO; and shall coordinate their component's compliance with the requirements of this Order and applicable federal and state laws. Through the Diversity Directors and Officers, and in compliance with the reporting guidelines and requirements established by ODEO, all state agencies shall submit periodic reports to the Director of ODEO concerning the status and implementation of their affirmative action and diversity plans.

Section 9. The Massachusetts Office on Disability ("MOD"), through its Director, shall be responsible for advising, overseeing and coordinating compliance with federal and state laws protecting the rights of persons with disabilities, including but not limited to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134; Section 504 ("504") of the Rehabilitation Act of 1973, 29 U.S.C. § 794; Article CXIV of the Massachusetts Constitution; and Chapter 6, §§ 185-87; Chapter 93, § 103; Chapter 151B; and Chapter 272, §§ 92, 98, and 98A of the Massachusetts General Laws. MOD shall serve as the Executive Branch's designated ADA and Rehabilitation Act Coordinator, and shall provide information, training, and technical assistance and promulgate guidelines reflecting best practices, policies and procedures concerning persons with disabilities. Each Executive Branch Entity shall appoint an ADA/504 Coordinator who shall report directly to the Executive Branch Entity head and work with MOD concerning issues involving persons with disabilities. Notification of such appointment shall be made to MOD's Director.

Section 10. Pursuant to guidelines established by ODEO and MOD, all Executive Branch Entity heads, managers, supervisors, and employees shall attend mandatory diversity training within one year of the effective date of this Order. For future hires, such training shall be part of the standardized orientation provided to new employees.

Section 11. ODEO and MOD shall promulgate guidelines establishing a complaint resolution process for individuals who allege non-compliance by state agencies with applicable federal and state laws prohibiting discrimination. In instances where this process does not resolve the complaint, the Director of ODEO may refer to the Massachusetts Commission Against Discrimination ("MCAD") or to MOD any information concerning conduct that the Director believes may constitute a violation of the law. The MCAD shall initiate investigations and, where necessary, file complaints against those agencies and persons whom it has reason to believe are in violation of the laws of the Commonwealth or the United States.

Section 12. In performing their responsibilities under this Order, ODEO, MOD, and the MCAD shall have the full cooperation of all state agencies, including compliance with all requests for information.





Section 13. The Governor’s Non-discrimination, Diversity and Equal Opportunity Advisory Council (“Advisory Council”) is hereby established to advise the Governor concerning policies, practices, and specific actions that the Commonwealth should implement to ensure that the objectives of this Executive Order are accomplished.

- 13.1 The Advisory Council shall consist of fifteen persons, including a Chair, each of whom shall be appointed by the Governor. All members shall serve without compensation at the pleasure of the Governor in a solely advisory capacity.
- 13.2 The Advisory Council’s work shall include, but need not be limited to, making written recommendations to the Governor concerning actions, policies, and practices that the Commonwealth should implement to ensure that the objectives of this Executive Order are accomplished.
- 13.3 The Advisory Council shall meet at such times and places as determined by the Chair and shall submit an initial report containing its written recommendations to the Governor no later than 60 days following the appointment of the Council’s 15 members. Thereafter, the Advisory Council shall meet at least semi-annually and submit supplemental reports to the Governor no less than once per year.

Section 14. Nothing in this Executive Order shall be construed to preclude or otherwise limit the continuation or implementation of any lawful affirmative action programs or other programs that support the objectives of this Executive Order.

Section 15. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded or revoked by subsequent Executive Order.

Given at the Executive Chamber in Boston this 30th day of January in the year of our Lord two thousand and seven, and of the Independence of the United States of America two hundred and thirty-one.





B. Joint Open Meeting Letter from the Attorney General and MOD

[Link to accessible text](#)



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108-1598

(617) 727-2200
www.ago.state.ma.us

May 31, 2007

Dear Chief Executive:

The Office of the Attorney General and the Massachusetts Office on Disability have been collaborating with local and municipal governments to ensure that people with disabilities have access to public meetings. In furtherance of these efforts, we are writing to remind you and other local officials that all residents of a community have the right to access to all municipal decision-making bodies. As you may know, this right is guaranteed by both federal and state laws, including Title II of the federal Americans with Disabilities Act; the federal Rehabilitation Act of 1973, § 504; Article 114 of the Massachusetts Constitution as enforced through the Massachusetts Equal Rights Act, G.L. c. 93, § 103; and the Massachusetts Open Meeting Law, G.L. c. 39, § 23A, *et seq.*

To assure people with disabilities an equal opportunity to fully participate in public meetings, municipalities should:

Assure independent physical access to people who use wheelchairs or other mobility aids. Meetings that are open to the public should be held in locations that provide, at a minimum, accessible parking (if public parking is offered), an accessible path of travel, an accessible entrance, and an accessible bathroom (if bathrooms are provided for public use).

Assure communication access. Upon reasonable advance request, municipalities should make available to people with disabilities auxiliary aides and services they need in order to have an equal opportunity to participate in public meetings. Examples of auxiliary aides and services include, but are not limited to, assistive listening devices, a sign language interpreter, and written materials in alternative formats such as large print, Braille, or audio tape.

We are available to provide assistance if you have any questions about what is legally required under both federal and state laws governing access to public meetings. If you would like technical assistance in evaluating specific measures your local government should take to ensure compliance with these laws, you may call the Massachusetts Office on Disability at 1-800-322-2020 (617-727-7440 in Boston) or the Attorney General's Disability Rights Project at (617) 727-2200.

Sincerely,

Martha Coakley
Attorney General

Myra Berloff
Massachusetts Office on Disability





The Disability Handbook



THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE BOSTON, MASSACHUSETTS 02108-1598
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Sincerely,

Martha Coakley
Attorney General

Myra Berloff
Massachusetts Office on Disability





C. State Accessibility Links

Massachusetts Commission Against Discrimination (MCAD)

<http://www.mass.gov/mcad> works to ensure equality of opportunity by enforcing the Commonwealth's anti-discrimination laws in employment, housing, public accommodations, credit, mortgage lending, and education. Established by Massachusetts General Law Chapter 151B, [Section 3](#), MCAD enforces General Law Chapter 149, [Section 105D](#), Chapter [151B](#), Chapter [151C](#), Chapter 272, [Section 92A](#), [Section 98](#) and [Section 98A](#), and Chapter 111, [Section 199A](#). MCAD works to eliminate discrimination and advance the civil rights of the people of the Commonwealth of Massachusetts through law enforcement (filing of complaints, investigations, mediations and conciliations, hearings, and litigation) and [outreach](#) (training sessions, public education, and testing programs).

Massachusetts Commission for the Blind (MCB)

<http://www.mass.gov/mcb> provides a broad array of social and rehabilitative services to all legally blind residents of the Commonwealth of Massachusetts. MCB provides the highest quality rehabilitation and social services to blind individuals, leading to independence and full community participation.

Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH)

<http://www.mass.gov/mcdhh> on behalf of people of all ages who are deaf and hard of hearing, established by Massachusetts General Laws, Chapter 6 §191-197, MCDHH works to explore innovative solutions for accessible communication, to identify links to resources and supports, and to become better prepared for current and future challenges impacting people who are deaf, hard of hearing, and late-deafened.

Massachusetts Department of Mental Health (DMH)

<http://www.mass.gov/dmh> works to assure and provide access to services and supports to meet the mental health needs of individuals of all ages, enabling them to live, work and participate in their communities. The Department establishes standards to ensure effective and culturally competent care to promote recovery. The Department sets policy, promotes self-determination, protects human rights and supports mental health training and research. This critical mission is accomplished by working in partnership with other state agencies, individuals, families, providers and communities.

Massachusetts Department of Mental Retardation (DMR) <http://www.mass.gov/dmr>

provides assistance in job placement, transportation, housing, or intense levels of treatment, monitoring and care. DMR provides these services through state-operated programs and with 265 provider agencies across the state. DMR is dedicated to creating, in partnership with others, innovative and genuine opportunities for individuals with mental retardation to participate fully and meaningfully in, and contribute to, their communities as valued members.





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Massachusetts Division of State Parks & Recreation, Universal Access Program

http://www.mass.gov/dcr/universal_access is dedicated to providing outdoor recreation opportunities in Massachusetts State Parks for visitors of all abilities. Accessibility to our State Parks is achieved through site improvements, specialized adaptive recreation equipment, and accessible recreation programs. Use this as a guide to discover the most accessible parks and forests that offer the recreation opportunities you seek.

Massachusetts Information Technology Division (ITD)

<http://www.mass.gov/accessibility> provides technology related guidance for Executive Branch Entities on accessibility, audits agencies for compliance with Executive Branch standards including Web sites and Applications standards. These standards roughly parallel those found in §508 of the Federal Rehabilitation Act.

Massachusetts Office on Disability (MOD)

<http://www.mass.gov/mod> was created in 1981, by M.G.L. c. 6, sec. 185, et seq., as the state advocacy Executive Branch Entity that serves people with disabilities of all ages. MOD's primary mission is to ensure access. The purpose of the Office is to bring about full and equal participation of people with disabilities in all aspects of life. It works to assure the advancement of legal rights and for the promotion of maximum opportunities, supportive services, accommodations and accessibility in a manner which fosters dignity and self determination. MOD is the Commonwealth's Americans with Disabilities Act Coordinating Agency.

Massachusetts Office of Diversity and Equal Opportunity (ODEO)

http://www.mass.gov/?pageID=hrdmodulechunk&L=1&LO=Home&sid=Ehrd&b=terminalcontent&f=contact_odeo&csid=Ehrd works to carry out the Governor's mandate to ensure practices of non - discrimination and equal opportunity and to deliver customer-focused solutions in attracting, hiring, retaining and promoting a diverse workforce within the Commonwealth of Massachusetts.

Massachusetts Rehabilitation Commission (MRC)

<http://www.mass.gov/mrc> promotes dignity for individuals with disabilities through employment and independent living in the community. MRC is responsible for Vocational Rehabilitation Services, Community Services, and eligibility determination for the Social Security Disability Insurance (SSDI) and the Supplemental Security Income (SSI) federal benefits programs.





D. Partial List of Civil Rights Enforcement Agencies

General

Massachusetts Commission Against Discrimination

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000 (Voice), (617) 994-6196 (TTY),

Or

436 Dwight St., #220
Springfield, MA 01103
(413) 739-2145

Website: <http://www.mass.gov/mcad>

U.S. Department of Justice Office on the Americans with Disabilities Act Civil Rights Division

950 Pennsylvania Ave., NW
Washington, D.C.
20530, (202) 514-0301 or (800) 514-0301 (Voice) (800) 514-0383 (TTY)
<http://www.usdoj.gov/crt/ada/adahom1.htm>

Employment

U.S. Equal Employment Opportunity Commission

JFK Building, Rm. 475
Boston, MA 02203
(617) 565-3200 or (800) 669-4000 (Voice)
(617) 565-3204 or (617) 699-6820 (TTY)
<http://www.eeoc.gov>

Housing

U.S. Department of Housing and Urban Development U.S. Office of Fair Housing and Equal Opportunity

O'Neil Building
10 Causeway Street, #321
Boston, MA 02222
(617) 994-8300 (Voice) (617) 565-5453 (TTY)
(800) 827-5005 (Voice) - Toll Free in MA
(800) 669-9777 (Voice) - Toll free in US
(617) 565-7313 FAX
<http://www.hud.gov/disabled.html>





Telecommunication

Federal Communication Commission

445 12th Street, SW
Washington, DC 20554
[888]225-5 activities 322 Voice, or [888] 835-5322 TTY
<http://www.fcc.gov/cgb/dro>

Recipients of Federal Funds

U.S. Department of Education

Office of Civil Rights

33 Arch Street, Suite 900
Boston, MA 02110-1491
(617) 289-0111 (V) or (877) 521-2172 (TTY)
<http://www.ed.gov/about/offices/list/ocr/aboutocr.html>

U.S. Department of Health and Human Services

Office of Civil Rights

JFK Federal Building, Room 1875
Boston, MA 02203
(617) 565-1340
<http://www.hhs.gov/ocr/contact.html>

U.S. Department of Housing and Urban Development

U.S. Office of Fair Housing

Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 321
Boston, MA 02222-1092
(617) 994-8300 (V) (617) 565-5453 (TTY)
<http://www.hud.gov/offices/fheo>

U.S. Department of Justice

Civil Rights Division

950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
(800) 514-0301 (V) or (800) 514-0383 (TTY)
www.ada.gov





Voting Rights

Massachusetts Secretary of State Elections Division

One Ashburton Place, Room 1705
Boston, MA 02108
(617) 727-2828 (800) 462-VOTE (800) 392-6090 (TTY)
FAX (617) 742-3238
Website: <http://www.mass.gov/sec/ele>

U.S. Department of Justice Voting Section, Civil Rights Division

#7254 – NWB
950 Pennsylvania Ave., N.W.
Washington, DC 20530
(800) 253-3931 or (202) 307-2767
<http://www.usdoj.gov/crt/voting/hava/hava.html>





E. Massachusetts Disability-Based Standards for Executive Branch Entities

Massachusetts Office on Disability

DISABILITY-BASED NON-DISCRIMINATION STANDARDS FOR EXECUTIVE BRANCH ENTITIES

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ARTICLE 1. PURPOSE

Section 1.01 The purpose of these standards is to operationalize within the Executive Branch of Massachusetts government the provisions of various federal and state laws which prohibit discrimination based on disability in the programs, activities and services operated by the Executive Branch, including but not limited to the Federal Rehabilitation Act of 1973, 29 U.S.C. 701, et seq., the Americans with Disabilities Act, 42 U.S.C. 12101, et seq., the federal and Massachusetts Fair Housing Acts, **42 U.S.C. 3601, et seq. and G.L. c. 151B, §4**, the Massachusetts Public Accommodations Statute, G.L. c. 272 §§ 92A, 98 and 98A, the Massachusetts Constitutional Amendment prohibiting discrimination based on disability, amendment Article CXIV, and it's implementing statute G.L. c. 93, §103.

ARTICLE 2. APPLICABILITY

Section 2.01 These standards prohibit discrimination as described herein by any entity within the Executive Branch of Massachusetts Government, as well as discrimination by any person or entity acting on behalf of or with the express or implied authority of any such entity.





ARTICLE 3. RELATIONSHIP TO OTHER LAWS

Section 3.01 These Standards do not invalidate or limit the remedies, rights, and procedures of any Federal law, or other State and local laws (including State common law) that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them. These standards do not alter an individual's right to seek redress where another state administrative enforcement procedure is available, including but not limited to those available from the Massachusetts Commission on Discrimination, 804 C.M.R. 1.00, et seq. the Architectural Access Board, G.L. c. 22, §13A, 521 C.M.R. §1, et seq., or the Special Education Regulations, 603 C.M.R. § 28.00, et seq.

ARTICLE 4. DEFINITIONS

As used in these Standards, the terms below shall have the following meanings:

Section 4.01 **Auxiliary aids and services** includes but is not limited to:

- (A) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, Assistive Listening Devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TTY's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
- (B) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (C) Acquisition, development, customization or modification of telecommunication, or electronic and information technology or other software, applications, equipment or devices; and
- (D) Other similar services and actions.

Section 4.02 **Current illegal use of drugs** means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Section 4.03 **Disability** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

- (A) **Physical or mental impairment** means any physical or mental disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; any mental or physiological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.



The phrase physical or mental impairment includes, but is not limited to, such contagious and non-contagious diseases and conditions, as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

- (B) **Major Life Activities** means those basic activities that the average person in the general population can perform with little or no difficulty. Examples of major life activities include functions such as: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The determination of whether an impairment substantially limits one or more major life activities shall be made without regard to the availability of medication, assistive devices, or other mitigating measures.
- (C) **Substantially limits** means an impairment that prohibits or significantly restricts an individual in his or her ability to perform a major life activity as compared to the ability of the average individual in the general population to perform the same activity. The determination of whether an impairment substantially limits a major life activity depends on the nature and severity of the impairment, the duration or expected duration of the impairment, and the permanent or long term impact of the impairment.
- (D) **Has a record of such an impairment** means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (E) **Is regarded as having an impairment** means:
- (1) Has a physical or mental impairment that does not substantially limit a major life activity but that is treated by an individual or entity as constituting such a limitation; or
 - (2) Has a physical or mental limitation that substantially limits a major life activity only as a result of the attitudes of others towards such an impairment; or
 - (3) Has none of the impairments defined in paragraphs (e) (1) or (2) but is treated by an individual or entity as having such impairment.
- (F) **Disability does not include –**
- (1) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
 - (2) Compulsive gambling, kleptomania, or pyromania; or
 - (3) Psychoactive substance use disorders resulting from current illegal use of drugs.





Section 4.04 **Drug** means a controlled substance, as set forth in the Massachusetts Controlled Substance Act (G.L. c. 94C, §§ 3 and 31).

Section 4.05 **Executive Branch Entity** means:

- (A) The Executive Branch of Massachusetts government; and
- (B) Any department, agency, board, commission, special purpose district, or other instrumentality of the Commonwealth that is under the authority or control of the Governor.

Section 4.06 **Facility** means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Section 4.07 **Historic Preservation Programs** means programs conducted by an Executive Branch Entity that have preservation of historic properties as a primary purpose.

Section 4.08 **Historic Properties** means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic by the Massachusetts Historical Commission.

Section 4.09 **Illegal Use of Drugs** means the use of one or more drugs, the possession or distribution of which is unlawful under the Massachusetts Controlled Substance Act (G.L. c. 94C, §1 et seq.) The term illegal use of drugs does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by G.L. c. 94 C or other provisions of Federal and State law.

Section 4.10 **Individual with a Disability** means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the Executive Branch Entity acts on the basis of such use.

Section 4.11 **Qualified Individual with a Disability** an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by an Executive Branch Entity.

Section 4.12 **Qualified Interpreter** means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.



Section 4.13 Service Animal means any guide dog, signal dog, or other animal trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Section 4.14 State means the Commonwealth of Massachusetts.

Section 4.15 Section 504 means Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

Section 4.16 Undue Burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include the following:

- (A) The nature and cost of the action needed to comply with these standards;
- (B) The overall financial resources of the entity or entities involved in the action; the number of persons employed at the entity; the effect on expenses and resources; legitimate safety requirements that are necessary to safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the entity's program;
- (C) The geographic separateness, and the administrative or fiscal relationship of the entity in question to any parent entity;
- (D) If applicable, the overall financial resources of any parent entity;
- (E) the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and
- (F) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

ARTICLE 5. ADMINISTRATIVE REQUIREMENTS

Section 5.01 Notice

An Executive Branch Entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of these standards and their applicability to the services, programs, or activities of that entity. It shall make such information available in such manner as the head of the entity finds necessary to apprise the aforementioned people of the protections against discrimination assured them by federal and Massachusetts Law.





Section 5.02 Designation of Responsible Employee

An Executive Branch Entity shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under these standards, including any investigation of any complaint communicated to it alleging its noncompliance with these standards or alleging any actions that would be prohibited by these standards. The Executive Branch Entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

Section 5.03 Grievance Procedures

(A) Complaint Procedure

An Executive Branch entity must adopt and publish an informal grievance procedure providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by these Standards. Individuals dissatisfied with the result of the informal grievance procedure may file formal complaints with various federal or Massachusetts enforcement agencies, including but not limited to:

- (1) The Massachusetts Commission Against Discrimination,
- (2) The U.S. Department of Justice, or
- (3) To the extent that the entity is a recipient of federal funds, with the appropriate federal Office of Civil Rights.

See Appendix 5, for contact information. These standards do not alter an individual's right to seek redress where another state administrative enforcement procedure is available, including but not limited to those available from the Massachusetts Commission on Discrimination, 804 C.M.R. 1.00, et seq. the Architectural Access Board, G.L. c. 22, §13A, 521 C.M.R. §1, et seq., or the Special Education Regulations, 603 C.M.R. § 28.00, et seq.

ARTICLE 6. GENERAL REQUIREMENTS

Section 6.01 Prohibition of discrimination

(A) General Prohibitions

c. No qualified individual with a disability shall, on the basis of disability,

- (1) Be excluded from participation in, or
- (2) Be denied the benefits of the services, programs, or activities of an Executive Branch Entity, or
- (3) Be subjected to discrimination by any Executive Branch Entity, subject to the defenses set forth in these Standards.





Section 6.02 Prohibited Activities

(A) Denial of Participation

An Executive Branch Entity shall not subject an individual or class of individuals, on the basis of disability or disabilities of the individual or class, directly or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in, or benefit from, the goods, programs, activities, services, facilities, privileges, advantages, or accommodations of the Executive Branch Entity.

(B) Unequal Benefit

An Executive Branch Entity shall not afford an individual or class of individuals, on the basis of a disability or disabilities of the individual or class, directly, or through contractual, licensing or other arrangements, with the opportunity to participate in, or benefit from, a good, program, activity, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other beneficiaries of the Executive Branch Entity.

(C) Separate Benefit

An Executive Branch Entity shall not provide an individual or class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing, or other arrangements with a good, program, activity, service, facility, privilege, advantage, or accommodation in an Executive Branch Entity that is different or separate from that provided to other individuals, unless the action is necessary to provide the individual or class of individuals with a good, program, activity, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(D) Aid or Perpetuate Discrimination by Others

An Executive Branch Entity shall not aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the Executive Branch Entity's program;

(E) Deny Participation on Planning or Advisory Boards

An Executive Branch Entity shall not deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(F) Otherwise Limit a Qualified Individual

An Executive Branch Entity shall not otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.





(G) Criteria or Methods of Administration

An Executive Branch Entity shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

- (1) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;
- (2) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the Executive Branch Entity's program with respect to individuals with disabilities; or
- (3) That perpetuates the discrimination of another Executive Branch Entity if both public entities are subject to common administrative control or are agencies of the State.

(H) Integrated Settings

(1) General

An Executive Branch Entity shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(2) Opportunity to Participate

Notwithstanding the existence of separate or different programs, services or activities, an Executive Branch Entity shall not deny an individual with a disability an opportunity to participate in programs, activities or services of an Executive Branch Entity that are not separate or different.

(3) Accommodations and Services

Nothing in these standards shall be construed to require an individual with a disability to accept an available accommodation, service, opportunity, or benefit that the individual chooses not to accept.

(I) Administrative Methods

An Executive Branch Entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

(J) Association

An Executive Branch Entity shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.



(K) Facility Site or Location

An Executive Branch Entity shall not, in determining the site or location of a facility, make selections:

- (1) That have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or
- (2) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.

(L) Selection of Procurement Contractors

An Executive Branch Entity, in the selection of procurement contractors, shall not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(M) Licensing or Certification Programs

An Executive Branch Entity shall not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may an Executive Branch Entity establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability.

(N) Policies, Practices, or Procedures

An Executive Branch Entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Executive Branch Entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

(O) Eligibility Criteria

An Executive Branch Entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.





(P) Retaliation or Coercion

(1) Places Where Programs, Activities or Services Are Conducted.

No person or entity may discriminate against any individual in a place where an Executive Branch entity's programs, activities or services are conducted, because that individual has opposed any act or practice made unlawful by these standards, or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under these Standards or any other standard, law or regulation related to non-discrimination based on disability.

(2) Coercion, Intimidation, Threats, or Interference

No person or entity may coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any disability based right granted or protected by state or federal law, regulation or policy.

Section 6.03 Limitation on Prohibited Activities

(A) Nothing in these standards prohibits an Executive Branch Entity from providing benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by these standards.

(B) Nothing in these standards shall be construed to:

- (1) Require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the ADA or these standards which such individual chooses not to accept.
- (2) Authorize the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

Section 6.04 Surcharges

An Executive Branch Entity shall not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by Executive Order 478, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or these standards.





Section 6.05 Illegal Use of Drugs

- (A) These standards do not prohibit discrimination against an individual based on that individual's current illegal use of drugs.
- (B) An Executive Branch Entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who--
- (1) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;
 - (2) Is participating in a supervised rehabilitation program; or
 - (3) Is erroneously regarded as currently engaging in the illegal use of drugs.

Section 6.06 Maintenance of Accessible Features

(A) General Maintenance

An Executive Branch Entity shall maintain in fully working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities.

(B) Isolated or Temporary Interruptions

Isolated or temporary interruptions in services due to maintenance or repairs do not violate subpart A, above. However, arrangements for continuity of service must be provided to ensure the health, safety and well being of an entity's consumers.

Section 6.07 Personal Devices and Services

These standards do not require An Executive Branch Entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

ARTICLE 7. SPECIFIC REQUIREMENTS

Section 7.01 Eligibility Criteria

(A) General

An Executive Branch Entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with disabilities or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.





(B) Safety

An Executive Branch Entity may impose legitimate safety criteria that are necessary for safe operations. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

Section 7.02 Reasonable Accommodation

(A) General

An Executive Branch Entity shall provide reasonable accommodation to individuals with disabilities when such accommodation is necessary to provide individuals with disabilities with full and equal goods, services, facilities, privileges, advantages, or accommodations, subject to the defenses set forth in Section 7.03, below.

(B) Reasonable Modification of Policies, Practices, or Procedures

An Executive Branch Entity shall make reasonable modification of policies, practices, or procedures where such modification is necessary to provide individuals with disabilities with full and equal goods, services, facilities, privileges, advantages, or accommodations.

(1) Service Animals

Executive Branch Entities shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) Provision of Auxiliary Aids and Services

An Executive Branch Entity shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities. Auxiliary aids and services include: equipment, devices, materials, and services necessary to provide effective communication with individuals with disabilities.

(3) Removal of Barriers

An Executive Branch Entity shall remove architectural barriers, including communication barriers that are structural in nature, where necessary to provide access to its goods, activities, programs or services.



Section 7.03 Defenses

(A) Direct Threat

An Executive Branch Entity need not permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when that individual poses a direct threat to the health or safety of others.

- (1) Direct threat means a significant risk of substantial harm to the health or safety of others that cannot be eliminated by a reasonable accommodation.
- (2) In determining whether an individual poses a direct threat to the health or safety of others, an Executive Branch Entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable accommodation will mitigate the risk.

(B) Fundamental Alteration

- (1) An Executive Branch Entity need not make any accommodation if it can show that making that accommodation would fundamentally alter the nature of the programs, activities or services offered by the Executive Branch Entity.
- (2) When making the accommodation would result in a fundamental alteration, the Executive Branch Entity shall provide an alternative accommodation that is effective in providing individuals with disabilities full and equal accommodations, advantages, facilities, and privileges to the maximum extent possible.

(C) Undue Burden

- (1) An Executive Branch Entity need not make any accommodation if it can show that making the accommodation would result in an undue burden, i.e. significant difficulty or expense.
- (2) When making the accommodation would result in an undue burden, the Executive Branch Entity shall provide an alternative accommodation that is as effective in providing individuals with disabilities full and equal goods, services, facilities, privileges, advantages, or accommodations to the extent that such alternative accommodation does not result in an undue burden.

(D) Personal Devices or Services

An Executive Branch Entity need not provide its customers, clients, or participants with personal devices such as wheelchairs; individually prescribed devices such as prescription eyeglasses or hearing aids; or substantial assistance of a personal nature.





Section 7.04 Program Accessibility

(A) General

No qualified individual with a disability shall, because an Executive Branch Entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of an Executive Branch Entity, or be subjected to discrimination by any Executive Branch Entity.

(B) Landlord and Tenant Responsibilities

Both the landlord who owns a building which houses a Massachusetts Executive Branch Entity and that entity are subject to these standards.

(C) Donated Space

Whoever utilizes donated space as a place for conducting any business, program, activity or service of an Executive Branch Entity is subject to the requirements of these Standards.

(D) Existing Facilities

(1) General

An Executive Branch Entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not:

- a) Necessarily require an Executive Branch Entity to make each of its existing facilities accessible to and usable by individuals with disabilities;
- b) Require an Executive Branch Entity to take any action that would threaten or destroy the historic significance of a historic property; or
- c) Require an Executive Branch Entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens

These Standards do not require an Executive Branch Entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and/or administrative burden. In those circumstances where personnel of the Executive Branch Entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, an Executive Branch Entity has the burden of proving that compliance with these standards would result in such alteration or burdens.



The decision that compliance would result in such alteration or burdens must be made by the head of the Executive Branch Entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion and by a written statement of concurrence from the Director of the Office on Disability or his/her designee.

Even if an action required to comply with these Standards has resulted or would result in such an alteration or such burdens, an Executive Branch Entity shall take any other action that would not result in such an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the Executive Branch Entity.

(2) Methods

a) General

An Executive Branch Entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities. An Executive Branch Entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. In choosing among available methods for meeting the requirements of this section, an Executive Branch Entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

b) Time Period for Compliance

Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made as expeditiously as possible.

(E) New construction and alterations.

(1) Design and construction.

Each facility or part of a facility constructed by, on behalf of, or for the use of an Executive Branch Entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. If the construction was commenced after January 26, 1992, said facilities or parts of the facilities shall conform with both the Americans with Disabilities Act Accessibility Standards for Buildings and Facilities (ADAAG) [28 C.F.R. §36, Appendix A](#), and the Massachusetts Architectural Access Board regulations ([521 C.M.R.](#)). If the construction was commenced after December 10, 1968, but before January 26, 1992, said facilities or parts of the facilities shall conform to the Massachusetts Architectural Access Board regulations ([521 C.M.R.](#)).





(2) Alteration

Each facility or part of a facility altered by, on behalf of, or for the use of an Executive Branch Entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after December 10, 1968.

(3) Accessibility Standards

Design, construction, or alteration of facilities shall be in conformance with the Americans with Disabilities Act Accessibility Standards for Buildings and Facilities (ADAAG) [28 C.F.R. §36, Appendix A](#), and the Massachusetts Architectural Access Board regulations ([521 C.M.R.](#)).

ARTICLE 8. COMMUNICATIONS

Section 8.01 General

(A) Effectiveness

An Executive Branch Entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(B) Auxiliary Aids and Services

- (1) An Executive Branch Entity shall furnish appropriate auxiliary aids and services, as defined in §4.01 of these Standards, where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by an Executive Branch Entity.
- (2) In determining what type of auxiliary aid and service is necessary, an Executive Branch Entity shall give primary consideration to the preferences of the individual with disability.

(C) Telecommunication Devices for the Deaf (TTY's)

Where an Executive Branch Entity communicates by telephone with applicants and beneficiaries, TTY's or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

(D) Telephone Emergency Services

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TTY's and computer modems.



(E) Information and Signage

- (1) An Executive Branch Entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.
- (2) An Executive Branch Entity shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

(F) Duties

These Standards do not require an Executive Branch Entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in an undue financial and/or administrative burden. In those circumstances where personnel of the Executive Branch Entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens an Executive Branch Entity has the burden of proving that compliance with these standards would result in such alteration or burdens.

The decision that compliance would result in such alteration or burdens must be made by the head of the Executive Branch Entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion and by a written statement of concurrence from the Director of the Office on Disability or his/her designee.

Even if an action required to comply with these Standards would result in such an alteration or such burdens, an Executive Branch Entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the Executive Branch Entity.





The Disability Handbook



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VIII. INDEX

Please refer to the Table of Contents for a detailed outline of the topics covered in this Handbook. References beginning with roman numerals refer to chapters. Those beginning with letters refer to appendices.

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