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## **ADA TITLE II COMPLAINT PROCEDURE**

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### **Purpose**

This Complaint Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (“ADA”), as amended, and various other state and federal legal obligations intended to ensure accessibility for all people with disabilities, including but not limited to 42 U.S.C. §§ 12132; Section 504 of the Rehabilitation Act of 1973 (“504”), 29 U.S.C. § 794; Article CXIV of the Massachusetts Constitution; and Chapter 6, §§ 185 and 187; Chapter 93, § 103; Chapter 151B; and Chapter 272, §§ 98 and 98A of the Massachusetts General Laws; and Massachusetts Executive Order 526. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by The Massachusetts Department of Transportation (“MassDOT”).

### **Procedure**

#### **Phase 1: Filing a Complaint**

An individual who believes that he or she or a specific class of individuals has been subjected to discrimination on the basis of disability by MassDOT may, by himself or herself or by an authorized representative, complete the attached complaint form and submit it to MassDOT’s Office of Civil Rights. Alternative means of filing complaints, including but not limited to personal interviews or a tape or audio recording of the complaint will be made available upon request.

The complaint should be submitted by the complainant and/or his/her designee as soon as possible but no later than 180 calendar days after the alleged violation to:

Julian Tynes, Assistant Secretary for Civil Rights (ADA Coordinator)  
MassDOT, Office of Diversity and Civil Rights (ODCR)  
10 Park Plaza, Suite 3800  
Boston, MA 02116  
Phone: (857) 368-8580  
Fax: (857) 368-0602  
Email: MASSDOT.CivilRights@state.ma.us

The complaint form can also be accessed online via the MassDOT ODCR website.

#### Phase 2: Investigation

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. The ensuing investigation will determine whether the complaint is supported by the facts.

#### Phase 3: Complaint Response

Within 30 calendar days of the meeting, the ADA Coordinator or his/her designee, in consultation with the MassDOT Legal Office, will respond in writing and where appropriate, in a format accessible to the complainant such as large print, Braille, or audio recording. The complaint response will explain the position of the department and, where it is found that the complaint is supported by the facts, a corrective action plan as well as other options for substantive resolution of the complaint. The complaint response will instruct the complainant that where he/she is dissatisfied with the decision or corrective action plan, they may contact the Massachusetts Office on Disability ("MOD") directly with a formal written appeal (see Phase 4 for details on filing appeals).

#### Phase 4: Appeal

Complaints that are not supported by the facts will be forwarded to the MOD for review and possible modification. Such decisions will not become final until 10 days after receipt by MOD.

In the event that a complainant is dissatisfied with the decision or corrective action plan, they may contact MOD directly with a formal written appeal, to be filed no more than 10 days following receipt of

MassDOT's decision on the complaint. The appeal should be in writing and describe the initial complaint, the agency response, and the ways in which the response does not satisfactorily address the complaint. Alternative means of filing appeals, such as personal interviews of a tape or audio recording of the complaint, will be made available upon request. The written appeal should be sent to:

Massachusetts Office on Disability  
One Ashburton Place, Room 1305  
Boston, MA 02108  
(617) 727-7440  
(800) 322-2020

### **Other Available Remedies**

The right of an individual to the prompt and equitable resolution of a complaint filed hereunder shall not be impaired by their pursuit of other available remedies. Engagement in this complaint procedure does not alter a complainant's right to seek redress where another state administrative enforcement procedure is available, including but not limited to those available from the Massachusetts Commission Against Discrimination, 804 C.M.R. 1.00, or the Architectural Access Board, G.L. c. 22, §13A, 521 C.M.R. §1. Nor does it alter a complainant's right to seek redress directly from federal authorities charged with ADA complaint resolution such as the Federal Highway Administration, the Federal Transit Administration, and the Department of Justice and/or state or federal court.

### **Record Retention**

All complaints received and responses issued as well as appeal documents will be retained by the Department for at least five years.

### **Resources for Matters Beyond MassDOT Accessibility Concerns**

#### **MBTA Related Complaints**

Complaints that an MBTA program, service, or activity was not accessible should be made directly to the MBTA at:

MBTA Customer Communications

10 Park Plaza, Suite 5610  
Boston, MA 02116  
Phone: (617) 222-3200  
TTY: (617) 222-5146  
Web: [http://mbta.com/customer\\_support/](http://mbta.com/customer_support/)

**MassDOT and MBTA Employee Issues**

MassDOT and MBTA personnel policies, including Equal Employment and Affirmative Action Plans, govern employment-related matters regarding concerns related to disability. Employees should contact:

MassDOT and MBTA Office of Diversity and Civil Rights  
10 Park Plaza, Suite 3800  
Boston, MA 02116  
Phone: (857) 368-8580  
Email: [MASSDOT.CivilRights@state.ma.us](mailto:MASSDOT.CivilRights@state.ma.us)