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# DISABILITY POLICY

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# I. POLICY

Child safety is the primary responsibility of the Department of Children and Families (the Department); it is the essential focus that informs and guides all decisions made from intake through case closure. Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) require child welfare agencies like the Department to provide parents/caregivers with disabilities an equal opportunity to participate in, and benefit from, all Departmental programs and activities, including those services aimed at helping parent/caregivers preserve or reunify their families. By fulfilling these obligations, the Department increases the opportunities for children to be in safe and nurturing caregiving environments.

The Department is committed to ensuring that parents/caregivers with disabilities are treated as individuals, not on the basis of generalizations or stereotypes, and that they receive the supports and services they need to have an equal opportunity to preserve and reunify their families. Just as with any parent, a parent/caregiver with disabilities may need services and supports to help them effectively care for their children. Parents/caregivers with disabilities may also possess unique strengths, and encounter unique circumstances, which impact how they parent their children. The Department is committed to ensuring that its clinical staff, and the professionals providing services to families involved with the Department, have the information and skills necessary to help parent/caregivers with disabilities maintain their children safely at home, or safely reunify with their children who have been placed out of the home.

In addition to the needs of parents with disabilities, the Department has a responsibility to provide services and supports to children with disabilities.

Studies have found that children with disabilities are more likely to experience maltreatment. (See, The Risk and Prevention of Maltreatment of Children with Disabilities, Bulletin for Professionals, January 2018, Child Welfare Information Gateway). When the supports and services a parent/caregiver needs to meet the daily care and supervision of a child with a disability are lacking, the parent/caregiver may be more susceptible to physical, emotional, and economic stressors that can increase the likelihood of maltreatment. It is imperative that children with disabilities receive services tailored to their individual needs and that the Department assess how the parent/caregiver and child relate to one another and form bonds, including understanding how disabilities can impact the parent-child relationship and family functioning.

This policy provides an overview of the Department's obligations under the ADA and Section 504 and addresses how these obligations influence specific aspects of the Department's work.

# II. PROCEDURES

## A. DEFINITIONS

**Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 -** Title II of the ADA and Section 504 provide that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity or be subject to discrimination by such entity. The ADA applies to state government agencies, such as the Department. Throughout this policy, these laws are referred to collectively as "the ADA."

**ADA Meeting -** A meeting held between Department staff and a parent/caregiver (and their counsel or advocate if applicable) to discuss a parent/caregiver's disability-related needs and request(s) for reasonable accommodation, or to review a disability-related complaint and discuss potential resolution. Depending upon the complexity of a requested accommodation, the ADA meeting may

consist only of the applicable Department staff and parent/caregiver and counsel/representative or may include other parties whose interests may be impacted (such as child's counsel or advocate).

**Auxiliary Aids and Services -** Also known as communication aids and services. Refers to methods of communicating effectively with individuals with communication disabilities. These can include technological tools, such as assistive listening devices, real-time captioning, video remote interpreting, and screen reader software. These can also include people, such as appropriate sign language interpreters and speech-to-speech transliterators, or other modifications such as providing accessible formats, including electronic copies of documents, extra-large print materials, or the use of simpler language in a document, commonly referred to as "plain language documents." The appropriate aid or service needed to communicate effectively will depend on the individual's preferred methods of communication and the nature, length, complexity, and context of the communication.

**Complaint -** Any claim of disability discrimination alleged by a parent, youth, or child, filed by said individual or their advocate regarding any Department staff, policy, program, or behavior, and distinct from any request for a reasonable accommodation.

**Disability -** A physical, sensory, or mental impairment that substantially limits a major life activity or operation of a major bodily function, a record of such an impairment, or being regarded or perceived by others as having such an impairment.

The term "substantially limits" is interpreted broadly. (See the Practice Guide at Appendix B for "Understanding the Definition of Disability".)

"Disability" should be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. A person is protected under the ADA if they have a disability that substantially limits a major life activity when the condition is active, even if the condition is not active at all times. The determination of whether an impairment substantially limits a major life activity should be made without regard to the beneficial effects of mitigating measures, such as medication, assistive devices or technology, prosthetic devices, or learned behavioral or adaptive neurological modifications. In addition, a person is protected under the ADA if they have a record of having a disability but no longer have it, or are regarded as having a disability, whether or not they actually have one. For example, an individual may have a record of a disability if they previously received treatment for substance use disorder or received special education services while in school. In addition, a companion with a disability, e.g. a grandparent who accompanies the parent to meetings, is protected by the ADA and may be entitled to accommodations or auxiliary aids/services.

**Direct Threat** – A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services. A determination of whether a parent/caregiver with a disability poses a direct threat to the health or safety of a child or others must be based on an individualized assessment into the nature, duration and severity of the risk, and the probability that the potential injury will occur. The determination must be based on reasonable judgment relying on current medical knowledge and on objective facts, not on stereotypes or generalizations about persons with disabilities.

**Interactive Process –** A good faith effort between the Department and an individual with a disability (or representative) to determine whether there is a reasonable accommodation available to help a person with a disability fully access and participate equally in the Department's activities, programs, and services. This process begins with a request for an accommodation, includes the offer of a meeting to discuss the request, and concludes with an offer by the Department to provide any requested accommodations or a reasonable alternative.

**Limited English Proficient (LEP) –** An individual may self-identify as not fluent in speaking, reading, writing, or comprehending English with providers and staff. LEP is not a disability. For information on providing language access, see the Language Access section below.

**Reasonable Accommodation –** A modification to a policy, practice, or procedure that is necessary to avoid discrimination on the basis of disability – in other words, a change to the way we or others usually do things so that a person with a disability can equally participate in and benefit from the Department's program, services, and activities to the same extent as someone without a disability.

**Resolution Notice –** The document sent by the Department to notify a parent/caregiver regarding the Department's decision on the parent/caregiver's complaint of disability discrimination. It includes an explanation of the Department's decision and actions taken in response to the complaint or request, an explanation of next steps (including timing), and, where applicable, an explanation of how to appeal the Department's decision.

## B. ROLES AND RESPONSIBILITIES

1. **Screener** is responsible for:
    - Gathering and documenting information regarding any disabilities, including physical, sensory, developmental, or intellectual disabilities, as well as mental or behavioral health challenges (such as substance use disorder) for parent(s)/caregiver(s) and child(ren).

2. **Response Worker** is responsible for:
    - Providing the parent/caregiver with a copy of the DCF Non-Discrimination & Disability Policy Notice in an accessible format for the parent/caregiver;
    - Gathering and documenting information regarding any disabilities, including physical, sensory, developmental, or intellectual disabilities, as well as mental or behavioral health challenges (such as substance use disorder) for parent(s) and child(ren);
    - Arranging for auxiliary aids and services in a timely manner; and
    - Working with parents to implement an accommodation if needed.

3. **Ongoing Social Worker** is responsible for:
    - Providing the parent/caregiver with a copy of the DCF Non-Discrimination & Disability Policy Notice if it has not already been provided to them;
    - Working with the parent/caregiver in a collaborative process to create an action plan that provides reasonable accommodations for any disability and provides supports and services appropriate to the individual parent;
    - Routinely asking the parent/caregiver if any accommodations previously granted are still working or need to be changed;
    - Informing and reminding service providers (with a parent's permission) of any reasonable accommodations required to be provided to the parent/caregiver so the parent/caregiver can continue to receive the accommodations while receiving the service;
    - Working with parents/caregivers of child(ren) with disabilities to identify any services and supports the parent/caregiver needs to provide for their child(ren)'s safety and well-being;
    - Attending meetings to discuss requested accommodations and auxiliary aids/services;
    - Documenting updated information regarding a parent's or child's disability; and
    - Documenting requests and resolution of reasonable accommodation requests.

4. **Supervisor** is responsible for:
    - Supporting the Social Worker in working with parents and child(ren) with disabilities;
    - Assisting the Social Worker in identifying and obtaining accommodations, services, supports, and auxiliary aids/services for a parent/caregiver with a disability, and services and supports for child(ren) with a disability;
    - Identifying the need for, and assisting in, consultations with disability specialists and Regional Disability Liaisons; and
    - Attending meetings to discuss requested accommodations and auxiliary aids/services, and document as needed.

5. **Area Program Manager** is responsible for:
    - Providing support and assistance to the Social Worker and Supervisor in working with parent(s) and child(ren) with disabilities;
    - Assisting in the identification of appropriate services, supports, and auxiliary aids/services;
    - Assisting in consultations with the disability specialist and Regional Disability Liaison when needed; and
    - Attending meetings to discuss requested accommodations and auxiliary aids/services, and document as needed.

6. **Regional Disability Liaison** is responsible for:
    - Providing consultation to the clinical teams when requested or required;
    - Assisting with, and participating in, meetings to discuss requested accommodations and auxiliary aids and services;
    - Receiving and resolving disability-related complaints, including complaints of disability discrimination; and
    - Documenting discrimination complaints and resolution in the electronic record.

7. **Statewide Disability Coordinator** is responsible for:
    - Providing consultation to the Department's staff when requested;
    - Receiving and helping to resolve complaints of disability discrimination; and
    - Documenting discrimination complaints and resolution in the electronic record.

## C. LANGUAGE ACCESS

*Working with individuals who are Deaf or hard of hearing and individuals with Limited English Proficiency:*

The Department's Language Access Plan (LAP) outlines how the agency is ensuring meaningful access to its programs, services, activities, and materials for all clients who self-identify as Limited English Proficient (LEP). The Department secures interpreter services for individuals who self-identify as LEP in a timely manner. To secure services for individuals who are Deaf or hard of hearing, the Social Worker contacts the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) as described in the Appendix to the Disability Policy. The Social Worker, or other Department staff, will not require or suggest that an individual who identifies as LEP bring their own interpreter or communication specialist to meetings. The Social Worker, or other Department staff, will not rely on an individual accompanying a consumer who identifies as LEP to interpret for the consumer.

For all individuals who identify as LEP, documents must be translated and provided in the individual's preferred language. The Social Worker arranges for the documents to be translated by using the Department's translation service contract in the Area Office. For the purposes of this policy, documents requiring translation include but are not limited to the Non-Discrimination & Disability Policy Notice, the written response to any requests for reasonable accommodations, and any complaint resolution notice.

For more information regarding the Department's Language Access Plan, please visit: https://www.mass.gov/dcf-language-access

## D. COMMUNICATION ASSISTANCE AND REASONABLE ACCOMMODATIONS

The Department is committed to working with all families in a way that ensures the Department:

- Provides parent/caregivers with disabilities an equal opportunity to participate in and benefit from Department services, programs, or activities;

- Treats parents/caregivers with disabilities as individuals by focusing on each parent/caregiver's unique behaviors, abilities, and needs, rather than acting based on stereotypes or assumptions about what a parent/caregiver may or may not be capable of based on their disability, diagnosis, or IQ score;
- Effectively communicates with parents/caregivers with disabilities, including by providing necessary auxiliary aids and services; and
- Provides parents/caregivers with disabilities with the supports, services, and accommodations they need to have an equal opportunity to preserve or reunify their families as required by federal civil rights laws and Department policy.

**Effectively Communicating with Individuals with Disabilities**

In all aspects of the Department's work, we must communicate with people with disabilities in a way that will be effective for them. A person may have different and unique communication needs based on their disability. The nature of communication differs from situation to situation, therefore effective solutions may differ too. Most of the time, the best way to ensure effective communication is to consult with the parent/caregiver to determine which communication method works best for them in any given situation, and then, whenever possible, to use that method. This section addresses effective communication obligations and the steps the Department must take to satisfy those obligations.

**Identifying a Need for Communication Assistance**

1. When meeting with a family, if a Social Worker observes, is informed, or otherwise becomes aware that an individual is having difficulty communicating or understanding information being communicated, the Social Worker should begin a conversation about the possible need for communication aids and services.
2. An individual may need communication assistance because they have difficulty hearing, speaking, seeing, reading, processing, or generally comprehending the information being shared with them. Best practice is to have a discussion with the parent/caregiver, as there is not a "one size fits all" solution.

**Different Methods of Communication Assistance**

3. An individual's communication needs may vary depending on the circumstances, including the nature, length, and complexity of the communication and the context in which it is taking place.

   For example, a Social Worker may find that a parent/caregiver can communicate well in their own home, speaking with one other person. That same individual may have difficulty communicating in a large meeting held in a conference room where multiple people are speaking and occasionally speaking over each other. Or in contrast, a parent/caregiver may find that the addition of a support person of their choosing assists in processing the information they are receiving in a meeting with a Social Worker.
4. To decide what aid or service is needed to communicate effectively, the Social Worker should consider the circumstances of the communication (nature, length, content, and complexity), as well as the person with a disability's preferred methods of communication. To determine this, the Social Worker should ask the individual what works best for them.
5. The Department must provide the appropriate type of aid or service to fit the particular circumstances.
6. In some instances, the Social Worker may be able to ensure effective communication assistance by making small adjustments to their usual practices. (See the Practice Guide at Appendix B for "Tips to Ensure Effective Communication").

**Requesting Communication Aids and Services**

7. Individuals with disabilities may request specific communication aids and services:
    - By speaking to the Social Worker, Supervisor, or Manager;
    - By writing to the Social Worker, Supervisor, or Manager (through email or regular mail);
    - By contacting the Regional Disability Liaison for their particular region;
    - By contacting the Statewide Disability Coordinator; or
    - Through their attorneys or advocates, if applicable, who can contact the Social Worker, Supervisor, Manager, Department Attorney, appropriate Regional Disability Liaison, or the Statewide Disability Coordinator.
8. When an individual requests a specific communication aid or service, the Department **will give primary consideration** to that request. If the particular aid or service cannot be provided, the Social Worker will work with the individual to try to identify an effective alternative. If the Social Worker cannot identify an effective alternative, the Social Worker will consult with a disability specialist or Regional Disability Liaison. (See Practice Guide at Appendix B for "Common Communication Aids and Services").
9. The Department staff who receive a request for a communication aid or service from an individual should immediately notify the assigned Social Worker and Supervisor who will document the request in writing in the electronic case record. If the case is court-involved, the assigned Department Attorney and the Regional Disability Liaison should also be notified.
10. If a request for a communication aid or service is denied in full or in part, Department staff should follow the procedures for "Denying a Request" in the "Additional Considerations Regarding Effective Communications and Reasonable Accommodations" section below.

**Interpreters and Communication Specialists**

11. The Department will secure interpreter services for individuals who are Deaf and hard of hearing in accordance with the Department publication "Requesting Communication Access for Deaf and Hard of Hearing Individuals" at Appendix C.

**Restrictions**

12. The Social Worker, or other Department staff, shall not require or suggest that an individual with a disability bring their own interpreter or communication specialist to meetings.
13. The Social Worker, or other Department staff, shall not rely on an adult accompanying an individual with a disability to interpret for them in place of an appropriate auxiliary aid or service UNLESS:
    - It is an emergency involving an imminent threat to the safety or welfare of an individual or the public and there is no other interpreter available; OR
    - The parent/caregiver specifically asks that the accompanying adult interpret or facilitate communication for them, the accompanying adult agrees to do so, and reliance on the adult is appropriate under the circumstances.
14. The Department will not rely on a child to interpret or facilitate communication for a parent/caregiver with a disability UNLESS it is an emergency involving an imminent threat to safety or welfare of an individual or the public and there is no other interpreter available.

**Providing Reasonable Accommodations for Parent/Caregivers with Disabilities**

The Department is required to provide reasonable accommodations to parent/caregivers with disabilities to ensure that they have an equal opportunity to participate in and benefit from the Department's programs and services. This obligation applies to all families with parent/caregivers with disabilities and at all stages of a family's involvement with the Department. This section details the process for responding

to requests for, and providing accommodations to, parent/caregivers with disabilities. The Department's default approach is to collaborate with parents/caregivers to identify accommodations, and then promptly provide those accommodations whenever possible.

**Requesting a Reasonable Accommodation**

1. Parent/caregivers may request reasonable accommodations and auxiliary aids/services:
    - By speaking to the Social Worker, Supervisor, or Manager;
    - By writing to the Social Worker, Supervisor, or Manager (through email or regular mail);
    - By contacting the Regional Disability Liaison for their particular region;
    - By contacting the Statewide Disability Coordinator; or
    - Through their attorneys or other representative of the parent/caregiver, if applicable, who can contact the Social Worker, Supervisor, Manager, Department Attorney, appropriate Regional Disability Liaison, or the Statewide Disability Coordinator.
2. A parent/caregiver, or someone requesting an accommodation on their behalf, is not required to use specific language to request a reasonable accommodation. A parent/caregiver does not need to mention the ADA, use magic words like "reasonable accommodation," or identify themselves as having a disability to be protected by the ADA.

**Identifying a Need for a Reasonable Accommodation**

3. Some disabilities may be readily apparent when staff meet or interact with a parent/caregiver. In other cases, a Social Worker may not be able to tell if a parent/caregiver has a disability or needs an accommodation without more information. Some parents/caregivers may also be reluctant to self-identify as having a disability for fear that assumptions will be made about their parenting capacity that negatively impact their involvement with the Department.
4. If a Social Worker observes a characteristic or behavior that may indicate the presence of a disability, is informed the parent/caregiver has a disability, or otherwise becomes aware that the parent/caregiver has a disability, the Social Worker must take at least one of the following steps, but may take them all:
    - Inform the parent/caregiver of the Disability Policy, ask the parent/caregiver if they would like an accommodation to assist with the observed behavior or known/identified disability and explain what an accommodation is.
    - Consult with their Supervisor regarding the observation or information, what it could mean, and potential next steps.
    - Consult with a Department specialist, including the Director of Disability Services, Disability Specialists, the Statewide Disability Coordinator, the Regional Disability Liaisons, or any of the Department's mental health, substance use/misuse, or medical specialists. For additional guidance, see "Evaluation" section below.
5. The Department does not need to ask for verification of a disability to provide an accommodation and in fact cannot ask for verification if a disability is obvious or the Department already has sufficient information to verify the disability. If the disability is not clear or obvious, the Department may ask the parent/caregiver for verification of the identified disability for which the parent/caregiver needs an accommodation. The parent/caregiver can obtain the verification from a medical provider, school or medical records, or other service professional. The verification should include that the parent/caregiver

has a disability-based limitation and that the requested accommodation would help to mitigate the limitation.

6. The parent/caregiver's clinical team should not consider verification of a disability as a requirement a parent/caregiver must meet in order to receive an accommodation. Rather, the clinical team should consider it as a tool they can use to get better information about the parent/caregiver's disability and possible appropriate accommodations.
7. The process of identifying a person's need for reasonable accommodations, as well as the appropriate reasonable accommodations, must be ongoing throughout the person's involvement with the Department.

**How to Identify an Appropriate Reasonable Accommodation: The Interactive Process**

8. The Social Worker, with the assistance of other clinical and legal staff when needed, must engage in an interactive process with the parent/caregiver to determine whether and how the Department can provide a specifically requested accommodation or a reasonable, equally effective alternative.
9. The parent/caregiver can be helpful in determining what accommodation will work for them. People with disabilities are the experts on their own disability and the kinds of accommodations, supports, and services that may be most helpful. Ask the parent/caregiver: "What would help you with this task?", "What types of accommodations might be helpful for you?", and "Is there anyone else who can help us understand what types of accommodations might be helpful for you?" (See Practice Guide at Appendix B for "Tools to Help Identify Appropriate Accommodations".)

**Evaluation**

10. The Department does not diagnose disabilities. For that reason, the Department and the parent/caregiver may sometimes agree that an evaluation or test should be performed prior to discussing an accommodation to provide the parties with more information. This should only occur where the individual has not/cannot provide sufficient verification of the disability-based need for an accommodation. A decision like this may create additional delay in eventually providing an accommodation, but if the parties all agree that this is the best course of action to identify appropriate accommodations for the parent/caregiver, the Social Worker and parent/caregiver should pursue it.
11. If such an evaluation is needed, the Social Worker will work with their Supervisor, a Disability Specialist, and any other necessary specialists, as well as the parent/caregiver and their counsel (if applicable) to find an appropriate evaluator. Once an evaluator is identified through this process, the Social Worker must make the referral promptly.
12. The Social Worker must upload any supporting documentation related to the accommodation request, into the applicable section of the electronic case record.

**Responding to Requests for Accommodations**

13. The Department staff who receive a request for a reasonable accommodation from a parent/caregiver should immediately notify the assigned Social Worker and Supervisor who will document the request in writing in the electronic case record. If the case is court involved, the assigned Department Attorney and the Regional Disability Liaison should also be notified. That team will communicate with each other to determine who responds to the request and the next steps to resolve the request.
14. The Department's clinical or legal staff must respond within 10 working days of receiving a request for a reasonable accommodation. The response should be both oral and in writing to ensure the parent/caregiver understands the Department's response.

15. The Department staff person identified to coordinate the request will communicate with the parent/caregiver or their representative in writing regarding the status of their request.
16. The response must say whether the Department is granting or denying the request. It must also describe the steps taken by the Department in response to the request (if applicable), and the next steps for the parent/caregiver either to access the accommodation (including timing) or, in the case of a denial, to file a complaint appealing the decision. (See Section E. Disability-Related Complaints below).
    - If the Department determines an ADA meeting is required to discuss the accommodation request, the response must say that.
    - If the Department needs additional information in order to respond to the request, it must tell the parent/caregiver what that information is, what steps the Department needs to take to get the information, and whether the parent/caregiver can provide any of the missing information. If the parties have agreed on the need for a further evaluation, as discussed above under “Evaluations”, the response should state this fact and explain next steps.
    - The response will also notify the parent/caregiver if the request has been referred to another Department staff person to coordinate the resolution and will identify who that person is, how to contact them, and explain next steps.

**Fulfilling Requests for Accommodations (See Denials Below)**

17. Some requests for accommodations are straightforward and relatively easy to grant, such as requests to schedule meetings at a particular time of day. These types of requests should be granted and resolved as quickly as possible.
18. For requests that can be implemented quickly, the Social Worker should confer with their Supervisor and Area Program Manager to determine whether to grant the request. If this group has questions or cannot come to an agreement, the clinical team should consult with the Regional Disability Liaison and/or a Disability Specialist for further assistance.
19. Requests that may take additional time to resolve include those that may require input from multiple parties or access to services for which there is a waitlist.
20. For requests that may take additional time, the Social Worker, in consultation with their Supervisor and Area Program Manager, should determine who needs to be included in the decision whether to grant the request. Other persons to involve may include the Disability Specialist, the Regional Disability Liaison, the Department’s Attorney, the parent/caregiver, and their attorney, and, if the request involves the child, child’s counsel. The Social Worker should schedule this meeting as quickly as possible with all necessary parties. The Department is not responsible for scheduling delays caused by the parent/caregiver or their representative or other parties.
21. In most cases, the Social Worker, with other Department staff, will resolve requests within 30 calendar days, but requests that will require input from sources outside of the Department may take additional time. The parent/caregiver’s clinical team will work diligently to gather that input and schedule any necessary meetings as expeditiously as possible. Any request for an accommodation that has not been resolved within 30 calendar days will be referred to the Regional Disability Liaison for review. The Regional Disability Liaison will resolve the request within a reasonable amount of time

considering the facts and circumstances, generally within 15 calendar days barring extenuating circumstances, for a total of 45 calendar days from the Department's receipt of the request. For requests that take more than 30 calendar days to resolve, the Department staff person coordinating the request will provide the parent/caregiver with updates every other week until the request is resolved. (See Practice Guide at Appendix B for "Common Examples of Reasonable Accommodations").

**Additional Considerations Regarding Effective Communication and Reasonable Accommodations**

The considerations below apply to how the Department responds to requests for, and provides, reasonable accommodations and auxiliary aids and services.

**No Surcharges**

1. The Department may not charge the parent/caregiver for the provision of reasonable accommodations or auxiliary aids/services.

**No Retaliation**

2. The Department may not coerce, intimidate, threaten, interfere, or engage in other retaliatory conduct against anyone because they request a reasonable accommodation or communication aid, file a disability discrimination complaint, or otherwise attempt to access services or assert rights that are protected by federal law or identified in this policy.

**Continuity of Accommodations and Services**

3. The Department's obligation to provide effective communication and reasonable accommodations to parents/caregivers with disabilities is ongoing throughout a family's involvement with the Department.
4. Once the Department has granted a reasonable accommodation or auxiliary aid/service, the Social Worker must work with the parent/caregiver to ensure that the accommodation or aid is effective throughout the course of the parent/caregiver's involvement with the Department, including at action planning meetings. As a family's needs change, the clinical team must respond to those needs with additional supports and services, if required.
5. This obligation continues when the Department refers a parent/caregiver to a service provider, such as an organization that provides parenting classes. That is, the Social Worker, with the assistance of applicable staff, must inform the service provider, with the parent/caregiver's permission, of the parent/caregiver's accommodation need so that the service provider can continue to provide the accommodation while the parent/caregiver is receiving the service. If the Social Worker learns that a service provider is failing to provide the accommodation or auxiliary aid, the Social Worker should report this issue to their Supervisor and Area Program Manager in order to work with the service provider to ensure the accommodation or auxiliary aid is provided or find a different service provider who will provide the accommodation or auxiliary aid.
6. The Social Worker can ask the parent/caregiver to sign a release of information to allow the Department to share information about the individual's disability and/or reasonable accommodation with the service providers to the extent necessary to enable the service provider to accommodate the parent's disability.

**Reasonable Efforts**

7. The Department's duty to make reasonable efforts to prevent removal of a child and achieve permanency for a child includes a requirement that the Department provide services, supports, and/or auxiliary aids to accommodate the needs of a parent/caregiver with disabilities.

**Personal Items and Other Limitations**

8. The Department is not required to provide parents/caregivers with personal devices or devices that must be prescribed (e.g., wheelchairs, eyeglasses, or hearing aids) or substantial assistance of a personal nature (e.g., assistance dressing or using a toilet).
9. If a parent/caregiver states that they need a personal item or personal assistance, the Social Worker should coordinate with other state agencies, community resources (e.g., community coalitions, family resource centers, medical providers, insurance companies) that may be able to provide such devices and services or make referrals to organizations that can do so. The Social Worker may work with the Director of Disability Services, Disability Coordinators, Regional Disability Liaisons, MCDHH and the Deaf Independent Living Centers and medical Social Workers to help find resources.
10. The Department is not required to provide a requested accommodation or auxiliary aid or service if it would fundamentally alter the nature of the Department's services or programs or is unduly burdensome administratively or financially.
    - A fundamental alteration is a change so significant that it alters the essential nature of the Department's service, program, or activity. Whether an accommodation would constitute a fundamental alteration is a highly fact-specific inquiry and the Department bears the burden of establishing that a proposed action would fundamentally alter the service in question.
    - The Department also bears the burden of proving that a particular accommodation, aid, or service, would result in an undue financial or administrative burden.
    - When considering whether an accommodation, aid, or service constitutes a fundamental alteration or undue burden, Department Staff must speak with members of the Department's legal team.

**Denying a Request for a Communication Aid or Reasonable Accommodation**

11. A Social Worker may not independently deny a request for an accommodation or aid as unreasonable or as an undue burden or fundamental alteration without first consulting with their Supervisor and the Regional Disability Liaison.
12. Only the Regional Disability Liaison or the Disability Coordinator, in consultation with Department legal staff, can determine that a particular accommodation, aid, or service would result in an undue burden or fundamental alteration.
13. If a request for an accommodation or aid is denied, the denial must be accompanied by a written statement explaining the reasons for the Department's decision and how to appeal the decision.
14. Where a parent/caregiver's initial request is determined to be unreasonable by the Regional Disability Liaison or Disability Coordinator, the Social Worker must engage with the parent/caregiver, and with other Department staff as needed, to try to find a reasonable, equally effective alternative.

**Appeals of Denials of Requests for Reasonable Accommodations**

15. A parent/caregiver, or child whose request has been denied, may appeal this decision pursuant to the Department's grievance process set forth in 110 CMR 10.36 through 10.38. The parent/caregiver or child may also pursue a disability-related complaint based on the Department's failure to provide a requested accommodation or auxiliary aid/service, as set forth in further detail in Section E of this policy.
16. The request for a grievance must be filed within 30 calendar days of receipt of the communication from the Department which contains the denial.
17. A grievance made under this Policy will be assigned to the Regional Clinical Director for the region pursuant to 110 CMR 10.38, who may receive assistance in reviewing the grievance from the Regional Counsel.

18. In the event that a particular Regional Clinical Director or Regional Counsel have already been involved in the decision being appealed, the grievance will be assigned to a Regional Clinical Director for another region.
19. The Regional Counsel providing assistance in reviewing the grievance may confer with the General Counsel or designee as needed to address the grievance.

**Documentation of Requests**

20. To help ensure that a parent/caregiver's accommodations and services are accurate and continuously provided, the Social Worker promptly records the following information in the electronic case record whenever a parent/caregiver requests an accommodation or an auxiliary aid or service:
    - The date the request was received;
    - A brief description of the request;
    - Whether the request was granted or denied (and the date of this decision); and
    - If the request was denied, an explanation of the alternative accommodation that was provided or the reason why no accommodation was provided.

## E. CASE PRACTICE

Social Workers, Supervisors, and Managers must be prepared to recognize disabilities, appropriately assess family needs related to disability, and provide appropriate services and accommodations to family members to address those needs, especially as they pertain to child safety. Recognizing a disability, whether in a parent/caregiver or a child, always includes a conversation with the family member regarding their individual needs. This section discusses disability-related considerations that may arise during case practice.

### Children with Disabilities

Children with disabilities can be more vulnerable to child maltreatment and therefore, the Department must take care to understand a child's individual vulnerabilities and adapt our practices of gathering information, making assessments, and safety decision-making. Understanding how a child's disability affects their daily functioning enables parents, caregivers, and Social Workers to build on strengths, identify vulnerabilities, and connect children to appropriate supports, interventions, programming, and accommodations to ensure the child's safety and well-being.

**Identification and Interactions**

1. In situations where a child has a disability, the Social Worker and the child's parent/caregiver(s) proactively take steps to ensure they fully understand the child's disability(ies) and disability-related needs.
2. To assist in understanding a child's disability(ies) and their corresponding needs, it is important for the Social Worker, in collaboration with the family, to:
    - Identify indicators and characteristics of disability, including identifying specific developmental, intellectual, or behavioral disorders which constitute a disability in children.
    - Gather information from the child, family members, medical providers, educational institutions, early intervention, or other collaterals, and through observations of the child and parent/caregiver.

**Interviewing and Communicating with Children**

3. If a Social Worker observes the child is having difficulty communicating at a developmentally appropriate level, the Social Worker should begin a conversation with the parent/caregiver about the possible need for communication aids. The Social Worker should ask the parent/caregiver(s) whether their child(ren) have any disabilities and how the disability may impact the ability of the Social Worker to

communicate and interact with the child(ren). The Department must provide or utilize appropriate communication aids and services to ensure effective communication with the child, giving primary consideration to the preferred method(s) of communication requested by the child or by the parent/caregiver on behalf of the child. (See Section C. Communication Assistance and Reasonable Accommodations and Practice Guide at Appendix B for "Common Communication Aids and Services").

4. Social Workers must make efforts to speak with children with disabilities regularly, and not rely on parents as the only source of information for a child. The Department must ensure children with disabilities are able to participate in conversations with the Social Worker and in services, to the fullest extent possible, by using appropriate communication aids (such as interpreters). Factors to consider in communicating effectively are the nature, length, complexity, and context of the communication and the child's normal method(s) of communication. Some children may have difficulty communicating their experience of maltreatment due to their disability or because they are speaking with someone they may not know well. Offering multiple and varied opportunities to engage in discussion can assist children with disabilities in communicating their needs and any maltreatment they may have experienced.
5. The Social Worker should adjust their interviewing techniques depending on the child's disability in consultation with a specialist if needed. The Social Worker must utilize auxiliary aids or resources whenever appropriate to ensure that the child can participate in the interview process. For content to cover and standards for child contact see the Ongoing Casework and Documentation Policy.

**Assessing Child Safety**

6. The Social Worker's assessment of safety and risk includes identifying whether a child has a disability, and if so, whether the child's individual needs as a result of their disability impact their safety and well-being in the context of the caregiving relationship and environment.
7. When a child has a disability, their parent/caregivers will often be experts on their child's needs. Sometimes, however, parent/caregivers may not fully acknowledge or understand a child's disability. In either scenario, the assessment should consider the capacity of a child's parent/caregivers to meet the child's needs and whether there are additional supports, services, or accommodations that could increase that capacity.
8. Decisions about child safety, including a determination that a parent/caregiver's disability results in conduct that impacts the safety and well-being of their child, must be based on objective facts and not on stereotypes or generalizations about individuals with disabilities. Such a determination must also include whether reasonable accommodations, or the provision of supports and services by the Department to the parent/caregiver, could reduce or eliminate any potential risk. The Social Worker should consult with their Supervisor and Department specialists when making this determination.

**Considerations Specific to Casework for Both Parent/Caregivers & Children with Disabilities**

**Intake/Screening**

1. During the intake of a family's case, whether protective or voluntary, the Screener gathers as much information as possible, including whether the parent/caregiver or child(ren) needs any communication aid or service or disability-related accommodation or services from the Department. Gathering information at this early stage allows the Department to identify and accommodate needs as quickly as possible.

2. The Screener is responsible for recording information available regarding any physical, sensory, developmental, or intellectual disabilities, as well as mental or behavioral health challenges (such as substance use disorder) in the demographics section of the electronic case record.

**Protective Response**

3. The Response Worker should continue to gather information about whether a parent/caregiver(s) or child(ren) has a disability and how that may impact their ability to communicate effectively and equally participate in services and assessments with the Department. This information is important when interviewing the family and making a decision about the allegations. Any additional information that is gathered regarding a parent/caregiver(s)' or child(ren)'s disability should be added to the demographics section of the electronic case record. The Response Worker must provide the parent/caregiver(s) with a copy of the DCF Non-Discrimination & Disability Policy Notice at the first in-person meeting during the response and review/explain the notice to them. The Response Worker should be particularly attentive to any indication that a child or parent/caregiver might have a disability that impacts their ability to communicate effectively with the Department. In such cases, the Response Worker should follow the guidance above (section "Effectively Communicating with Individuals with Disabilities") and provide or utilize appropriate communication aids and services during the response to ensure effective communication with the family.

   Interviewing techniques may need to be modified based on a parent/caregiver's or child's unique needs. The Response Worker should consider consulting with a specialist to determine how best to interview a child or parent/caregiver with a disability.
4. When assessing child safety, the Response Worker must assess a parent/caregiver on an individualized basis. If a parent/caregiver has a disability, a determination that the parent/caregiver's disability impacts their ability to provide for and maintain child safety must be based on objective facts and not on stereotypes or generalizations about individuals with disabilities. For example:

   - A parent's IQ score alone should not be relied on to determine that they cannot safely parent their child or are unable to learn certain parenting skills.
   - A Deaf parent hitting a table loudly should not be assumed to be an act of aggression when it may simply be a means (often used in the Deaf community) to get someone's attention.

5. Such a determination must also include whether reasonable accommodations, or the provision of supports and services by the Department to the parent/caregiver, could reduce or eliminate the risk. The Response Worker should consult with their Supervisor and the Regional Disability Liaison when making this determination.
6. When assessing child safety, the Response Worker must also consider the unique vulnerabilities of a child with a disability and assess how the parent/caregiver's protective capacity can meet the individual needs of the child.
7. When making reasonable efforts to prevent removal, the Response Worker must consider whether the provision of reasonable accommodations or the provision of services to a parent/caregiver with a disability will reduce or eliminate the risk.
8. The Response Worker should consult with the regional clinical specialists on substance use/misuse, mental/behavioral health, housing, and health and medical services as needed. The Response Worker can also consult with the Regional Disability Liaison, Director of Disability Services, or Disability Specialists for

assistance in interpreting observations and information, and identifying needs, necessary accommodations, supports, and services.

**Family Assessment and Action Planning**

9. The ongoing Social Worker must provide the parent/caregivers with a copy of the DCF Non-Discrimination & Disability Policy Notice at the first in-person meeting during assessment.

10. During the family assessment process, the Social Worker assesses each child and parent/caregiver(s) through the use of protective factors that assess a parent's capacities. (See Family Assessment and Action Planning Policy).

    Title II of the ADA and Section 504 require that parent/caregivers with disabilities have a full and equal opportunity to participate in the Department's family assessment process. To have an equal opportunity to participate and benefit from this process, the Department must consider how the structures and procedures of the assessment itself can be reasonably modified to best allow a parent/caregiver's full and equal participation in the assessment. The Department must also consider additional supports and services that a parent/caregiver with a disability may benefit from to ensure child safety, permanency, and well-being.

11. Social Workers should be mindful of communication aids or services necessary to ensure that a parent/caregiver can fully participate in the assessment process and that the assessment is effective. Parent/caregivers with disabilities will be assessed on an individualized basis. It must be a fact-specific inquiry that evaluates the strengths, needs, and capabilities of a parent/caregiver with a disability based on objective evidence, personal circumstances, and demonstrated competencies. Determinations regarding their parental capacity must not be based on stereotypes or generalizations about individuals with disabilities.

12. It is important to evaluate a parent/caregiver's actual functioning as a parent, taking into account both the supports that a parent/caregiver may already have in place and potential new supports a parent/caregiver may need. The Social Worker may need to observe a parent/caregiver with a disability in their natural home environment. It is also important to remember that parents with disabilities may use different tools, techniques, and parenting styles than parents without that particular disability; this should not be assumed to be wrong or unsafe, simply because they are different or unique.

    The Social Worker should also make note of any reasonable accommodations or communication aids the family may need if it remains involved with the Department.

**Consult with Department Specialists**

13. In assessing parental capacity and attempting to determine how to mitigate any risk, staff should consult with the Department's regional clinical specialists on substance use/misuse, mental/behavioral health, housing, and health and medical services as needed. Staff should also consult with the Regional Disability Liaison, Director of Disability Services, and Disability Specialists for assistance in interpreting observations and information, and identifying needs and necessary accommodations, supports, and services.

**Action Planning, Services, and Supports**

14. Action planning should be a collaborative and interactive process done with the family. The Action Plan developed with a parent/caregiver with a disability, or a parent/caregiver of a child with a disability, is based on an individual assessment of what services and supports the family needs to provide for their child(ren)'s safety and well-being. Action Planning for parents/caregivers with disabilities should be individually tailored to accommodate the parent/caregiver's disabilities and should include the provision of services and supports that meet the individual parent/caregiver's disability-related needs and enable them to succeed. (See Family Assessment and Action Planning Policy).
15. In working with parents/caregivers or children with disabilities, the Department will make referrals as needed for the parents/caregivers and/or children to meet its obligations to make reasonable efforts to prevent placement out of the home and to provide reasonable accommodations. Some referrals may include further assessments of a parent/caregiver or their child. (See Practice Guide at Appendix B for "Common Examples of Referrals").

**Identify Supports**

16. If it is determined that a parent/caregiver's disability adversely affects their capacity to provide a safe and nurturing environment for their child(ren), the Department must identify supports and services to help that parent/caregiver strengthen their capacity. Both the Department and service providers have a role in teaching and coaching the parent/caregiver in increasing the skills and capacity they need to successfully care for their child(ren). Learning should always be paced at the parent/caregiver's ability to absorb the lessons and should occur in tandem with efforts to broaden caregiver supports.
17. Children with disabilities may receive appropriate individualized services from the Department as required. (See the Department's Education Policy for further information).

**Working with Collaterals, Services, and Supports**

18. Collaterals and service providers play an important role in helping the Social Worker understand child and parent/caregiver disabilities. They also help the Department figure out how to work with a family and provide supportive services when a child and/or their parent/caregiver(s) have an identified disability.
19. The Social Worker, with the assistance of their Supervisor, Manager, and Disability Specialists when needed, will identify and access community resources, accommodations, and technology, and make referrals to help connect families to them. (See "Providing Reasonable Accommodations for Parent/Caregivers with Disabilities" above).
20. The Social Worker's role is to collaborate with collaterals to help identify and understand disabilities, and then to recommend interventions, supports, and accommodations for both the child and the parent/caregiver.

    When the Social Worker identifies that a child has a disability, the Social Worker, or other Department staff as appropriate, will collaborate with the child's medical providers, treatment providers, Department consultants, and (when applicable) the child's attorney, Guardian Ad Litem, or Court Appointed Special Advocate to ensure coordinated planning and interventions.

**Documentation – Demographic and Medical Information**

21. The Social Worker updates the family's demographic information regularly in consultation with their Supervisor.
22. The Social Worker updates the electronic case record to include any disability-related services, assistance, or accommodations (such as a parent aide or interpreter) that the Department is or should be providing to ensure that the parent/caregiver can fully and equally participate in the Department's family preservation and reunification services.

23. The Social Worker documents current, known, relevant medical and disability-related information in the child's medical/behavioral profile. The Social Worker updates this information as it changes.

**Supervision**

24. Supervision is an important tool to help Social Workers, Supervisors, and Managers understand how a specific family functions, particularly for families with disabilities.
25. Social Workers, Supervisors, and Managers should use supervision to discuss issues related to working with parent/caregivers and children with disabilities.
26. In reviewing information and observations to understand a parent/caregiver or child's disabilities and service needs, the Supervisor or Manager helps identify when additional consultation is needed with the Department's specialists in the fields of disability, mental health, and substance use/misuse or with other external resources.
27. Supervision is an important opportunity to check biases and confirm that case decisions are being made based on objective observations and not generalizations or stereotypes.
28. In cases involving a child in placement, Supervision can be used to:
    - Ensure plans for reunification include acknowledgment of the particular vulnerabilities of a child with a disability and the unique stresses and circumstances that may be introduced into a household;
    - Ensure plans for reunification include any services, supports, or accommodations a parent/caregiver needs as a result of their own, or their child's, disability. For example, this could include brainstorming how to provide parent/caregivers with accommodations related to family time (such as visitation locations that are easily accessible to the person with a disability, extended visitation hours, adaptive parenting equipment, etc.); and
    - Schedule a consult, as needed, with a Department specialist, including the Director of Disability Services, Disability Specialists, the Statewide Disability Coordinator, the Regional Disability Liaisons, or any of the Department's mental health, substance use/misuse, or medical specialists.

## Considerations Related to Removal, Families with Children in Foster Care, and Reunification

**Considerations for Removal**

1. The Department's obligation to make reasonable efforts to prevent removal, whether in emergency or non-emergency circumstances, includes the obligation to provide reasonable accommodations to a parent/caregiver with a disability. In considering a removal of a child who has a disability or is in the care of a parent/caregiver with a disability, Social Workers, in consultation with their Supervisor, Manager, Department Attorney, Regional Disability Liaison, and Disability Specialist if needed, must address whether reasonable efforts to prevent the removal may be sufficient to mitigate the harm or risk of harm to the child. If the Social Worker, in conjunction with their Supervisor and Manager, determines that reasonable efforts (including reasonable accommodations) are not sufficient to mitigate the risk of harm to the children, removal may be necessary. The Safety Assessment tool may be helpful in supporting this determination.

2. The Department will not base decisions about removal of a child on stereotypes or generalizations about persons with disabilities, or on a parent's disability, diagnosis, or IQ scores alone. Rather, the Department will base such decisions on an individualized assessment of the parent/caregiver with a disability and objective facts.

3. Even if the Department determines that a child must be removed from the home, a parent/caregiver with a disability must still be permitted to participate in and benefit from Department services, programs, or activities, for which they are otherwise qualified, as long as they do not pose a direct threat to the health or safety of others when participating. In determining whether an individual poses a direct threat to the health or safety of others, the Department must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to understand: the nature, duration, and severity of the risk; the probability that potential injury will occur; and whether reasonable modifications of policies, practices, or procedures, or the provision of auxiliary aids or services, will mitigate the risk.

4. For children with disabilities, the foster home in which they are placed must have the capacity to meet their individual needs. The Department prioritizes placing with kin first. If the selected foster home needs support to meet the individual needs of a child with a disability, including communication access, the Department will put services and supports in place to help them meet the individual needs of the child.

**Family Time**

5. Family Time is vitally important to keep parent/caregivers and children connected in cases involving removal. The Department must facilitate and encourage family time. In cases involving parent/caregivers or children with disabilities, Family Time may require accommodations, including communication aids and services; and/or adjustments to meeting location or duration.

**Reunification**

6. Reunification efforts should always take into account a parent/caregiver's and/or child(ren)'s disabilities and supports and services that will continue to mitigate any risks as the family is reunified. The Risk Reassessment tool may be helpful in this planning process.
7. These efforts to account for and accommodate a parent/caregiver's or child(ren)'s disabilities in the reunification process must be documented in the electronic case record as noted above.
8. A decision to reunify a child with their parent/caregiver will follow the process set out in the Department's Reunification Policy. If either the parent/caregiver or the child has a disability, the Reunification Readiness Review tri-level meeting must include a consultation with a Disability Specialist or the Director of Disability.

**Transition Planning for Youth**

9. Youth with disabilities in the child welfare system face many additional barriers to a successful transition. To aid in the successful transition from the child welfare system to an adult-serving system, Social Workers for youth must begin planning early, exploring what resources, benefits, and services are available in the adult system, and how the youth will access them. Involving youth in their transition planning is critical. For additional information on transition planning for youth, see Permanency Planning Policy.

## F. DISABILITY-RELATED COMPLAINTS

**Disability-Related Complaints**

1. Complaints of disability discrimination and other disability-related complaints (including complaints about violations of this policy) may be made by a parent/caregiver, or by their attorney or advocate, to the Department's Office of the General Counsel, the Statewide Disability Coordinator, the Regional Disability Liaisons, or the Office of the Ombudsman. The complaint may be made in writing, via email, or over the phone. (See Appendix A or the Department's website for contact information.) Disability discrimination complaints on behalf of a child may be made by a parent/caregiver or child's counsel (if appointed) to the Office of the Ombudsman, or through the Grievance process directed to the appropriate Area Office.
2. Although complaints can take many forms, there are three common types of complaints:
    (a) failure to provide a requested accommodation or auxiliary aid/service;
    (b) discrimination on the basis of a disability; and
    (c) failure to follow this policy.
3. The Department may require additional information from the parent/caregiver, child, or their representative regarding the complaint to evaluate it fully. This may include a specific statement from the parent/caregiver about the nature of the discrimination alleged and the relief the parent/caregiver is seeking. In addition, parents/caregivers with disabilities and their representatives may submit any evidence and documents in support of their complaint.
4. Parents/caregivers and children with disabilities must have an opportunity to fully and equally participate in the complaint resolution process. The Department will ensure that any communication aids or services a parent/caregiver or child with a disability needs to communicate and participate in the process are provided.

**Initial Review**

5. Upon receipt of a complaint, the Regional Disability Liaison and Statewide Disability Coordinator will review the complaint to determine whether it is a disability-related complaint, or whether it would be more appropriately handled by the Department's Office of the Ombudsman, or another state agency.
6. Within 10 working days of receiving the complaint, the Regional Disability Liaison will notify the parent/caregiver and their counsel (if applicable) if the complaint will be referred elsewhere to be resolved. The Regional Disability Liaison will also notify the parent/caregiver and their counsel if the complaint cannot be resolved by the Department.
7. If the Regional Disability Liaison or Statewide Disability Coordinator determine that a complaint regarding a delay in the provision of a reasonable accommodation or service is the result of circumstances beyond the Department's control, for example, a third party fails to provide requested information to the Department or there is a waitlist for a required evaluation, the Regional Disability Liaison will notify the parent/caregiver and their counsel of the reasons for the delay. When such a delay occurs:
    - The Department will work with the parent/caregiver to identify and provide an alternative service or accommodation that meets the parent/caregiver's stated needs and that is not dependent on third-party action.
    - The Department will provide bi-weekly updates to the parent/caregiver and their counsel regarding the status of the requested accommodation or service that has been delayed.
    - The Department will also consider whether other case deadlines should be extended.

**Full Review and Complaint Meeting**

8. If the initial review determines that a complaint is disability-related, the Regional Disability Liaison will conduct a full review of the complaint and all relevant materials, including:
    - Information submitted by the parent/caregiver (and their counsel or other representatives as appropriate);
    - Information contained within the clinical and legal case record; and
    - Any assessments or evaluations of the parent/caregiver.

    As with all medical records it receives, the Department will maintain the confidentiality of any medical records provided in support of a disability-related complaint or a request for accommodation or auxiliary aid/service. Such information will only be shared to the extent allowed by law.
9. The Regional Disability Liaison will also meet with clinical staff to review the complaint and gather information.
10. After reviewing all the material gathered regarding the complaint, for complaints involving requests for accommodations or auxiliary aids/services, the Regional Disability Liaison will schedule an ADA meeting with the parent/caregiver, their counsel (if applicable), and appropriate clinical staff to review the complaint and the material gathered/provided and to discuss potential resolutions. This meeting will be scheduled as soon as all relevant materials and information have been obtained but, in any event, no later than 35 calendar days from the receipt of the complaint. (The Department is not responsible for scheduling delays caused by the parent/caregiver or their representative or other parties.)
    - Disability-related complaints must be resolved at the earliest possible point of contact.
    - If the Regional Disability Liaison believes a resolution to the complaint is possible without scheduling a formal meeting, they can reach out to the parent/caregiver or their counsel regarding the proposed resolution and the parties can work together to determine if a meeting is necessary.
    - As noted above, the failure of a third party to provide relevant information or take other necessary action should not prevent the Department from meeting and working with a parent/caregiver to resolve their complaint with whatever means are within the Department's control.

11. After the ADA meeting, the Regional Disability Liaison will make a determination regarding the complaint. The Regional Disability Liaison shall make a final determination regarding the provision of any reasonable accommodations, auxiliary aids or services, and/or other services, within 10 working days of the ADA meeting. For complaints that did not involve requests for accommodations or auxiliary services, the Regional Disability Liaison shall make a final determination regarding the complaint no later than 49 calendar days from receipt of the complaint. The Regional Disability Liaison may work with the Statewide Disability Coordinator at any point during this review and decision-making process and must get approval from the Statewide Disability Coordinator before issuing a determination that:
    - Denies relief requested by the parent/caregiver in their complaint; and
    - Was not mutually agreed upon with the parent/caregiver and their counsel.

12. In reviewing complaints, the Regional Disability Liaison and Statewide Disability Coordinator may consult with the General Counsel, Deputy Commissioner, and Commissioner as needed. However, disability-related complaints should be resolved as quickly as possible.

**Resolution of the Complaint**

13. Upon reaching a decision, the Regional Disability Liaison or Statewide Disability Coordinator will issue a written resolution notice to the parent/caregiver and their counsel, explaining the outcome of the complaint, the actions taken by the Department in response to the complaint, the decision made by the Department, and

an explanation of next steps, if any (including timing). The written resolution notice shall be issued within 7 calendar days of the decision.

14. If the Department decides to deny any reasonable accommodations, auxiliary aids or services that served as the basis for a complaint, or declines to provide other requested remedies, the resolution notice must also include the Department's reasons for the denial and how to appeal the decision where applicable. (See below.)
15. If the Department has decided to provide requested accommodations or to take other remedial actions in response to the complaint, the Regional Disability Liaison or Statewide Disability Coordinator will notify the parent/caregiver, their counsel or other representative (if applicable), and Department staff of its decision. All resolution notices will include, where applicable, a copy of any instructions to staff on providing accommodations and auxiliary aids/services or other remedial measures.

**Appeals of Determinations Regarding Complaints**

16. If the parent/caregiver or their representative is not satisfied with the Department's resolution of the Disability-Related Complaint, they may appeal this decision pursuant to the Department's grievance process set forth in 110 CMR 10.36 through 10.38.
17. The request for a grievance must be filed within 30 calendar days of receipt of the Department's complaint resolution notice which contains the denial.
18. A grievance made under this Policy will be assigned to the Regional Clinical Director for the region pursuant to 110 CMR 10.38, who may receive assistance in reviewing the grievance from the Regional Counsel.
19. In the event that a particular Regional Clinical Director or Regional Counsel have already been involved in the decision being appealed, the grievance will be assigned to a Regional Clinical Director for another region.
20. The Regional Counsel providing assistance in reviewing the grievance may confer with the General Counsel or designee as needed to address the grievance.

**Documentation of Disability-Related Complaints**

21. The Regional Disability Liaison must input the following information in the electronic case record:
    - The date when the complaint was received;
    - The status of the complaint;
    - Bi-weekly status updates;
    - A complete copy of the resolution notice; and
    - Any accommodations or services the Department has agreed to provide, or actions it has agreed to take, and by what date, if not recorded elsewhere in the electronic case record.

# Appendix A: Disability Roles at the Department and Contact Information

**Statewide Disability Coordinator:** This role is currently held by **Jeremy King**, the Department's Civil Rights Compliance Coordinator. The Statewide Disability Coordinator is responsible for receiving and helping to resolve complaints of disability discrimination from parents and caregivers as well as providing consultation and support to the Regional Disability Liaisons.

**Regional Disability Liaison:** The Regional Disability Liaisons are the Department attorneys located within each region that assist with and participate in meetings to discuss requests for reasonable accommodations and auxiliary aids made by parents and caregivers. The Regional Disability Liaisons also receive and resolve complaints of disability discrimination by parents and caregivers.

The Regional Disability Liaisons are:

Boston Region: Melanie Capwell

Central Region: Jodi Rich

Northern Region: Matthew Mitchell

Southern Region: Ian Prescott

Western Region: Andrew Blefeld

Any of the contacts above can be reached via email at DCF.Disability.Coordinator@mass.gov.

**Director of Disability Services:** The Director of Disability Services is responsible for overseeing timely one-on-one case consultations and ensuring that staff have in-house access to an expert with a thorough understanding of the complex dynamics of families impacted by disabilities where children are especially vulnerable. The **Disability Services Unit** provides training and supports capacity building for staff to work with families impacted by Autism, Developmental Disabilities, Intellectual Disabilities, and physical disabilities.

**Regional Disability Specialist:** Regional Disability Specialists are part of the **Disability Services Unit** and are located within each region to provide timely one-on-one case consultations to provide internal clinical guidance for families impacted by Autism, Developmental Disabilities, Intellectual Disabilities, and physical disabilities. Much like the Domestic Violence, Substance Use and Mental Health Specialists, the Regional Disability Specialists will participate in regional meetings and review teams as requested.

Contact information for the Director of Disability Services and Regional Disability Specialists is available for Department staff on the Department's intranet at https://massgov.sharepoint.com/sites/DCF-disability.

The Department's **Office of the Ombudsman** may be reached at 617-748-2444 or online at https://www.mass.gov/service-details/dcf-office-of-the-ombudsman

# Appendix B: Practice Guide

Understanding the Definition of Disability

A disability is a physical, sensory, or mental impairment that substantially limits a major life activity or operation of a major bodily function, a record of such an impairment, or being regarded or perceived by others as having such an impairment.

The term “substantially limits” is interpreted broadly.

Major life activities are the kind of activities that are generally done every day, including your body’s own internal processes, although the activity need not be of central importance to daily life. Some examples of major life activities include:

- actions like eating, sleeping, speaking, and breathing;
- movements like walking, standing, lifting, and bending;
- cognitive functions like thinking, and concentrating;
- sensory functions like seeing and hearing; and
- tasks like working, reading, learning, and communicating.

And examples of the operation of major bodily functions include:

- functions of the immune, respiratory, and endocrine systems;
- circulation;
- digestion;
- reproduction;
- neurological and brain functions;
- bowel and bladder functions;
- normal cell growth; and
- the operation of individual organs.

These are non-exhaustive lists of examples.

A disability can be temporary or permanent, and a disability can be present at birth or acquired at any point during a person’s life.

Some disabilities are visible and some are not. Some examples of disabilities include:

- Learning disabilities, such as dyslexia or dysgraphia;
- Intellectual and developmental disabilities, such as autism spectrum disorder (ASD);
- Sensory disabilities, such as hearing loss or low vision;
- Mental health disabilities, such as PTSD, major depression, or substance use disorders;
- Mobility disabilities, such as those requiring use of a walker or cane; and
- Some medical conditions, such as cancer, diabetes, epilepsy, traumatic brain injury (TBI), or HIV.

The ADA covers many other disabilities not listed here.

“Disability” should be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. A person is protected under the ADA if they have a disability that substantially limits a major life activity when the condition is active, even if the condition is not active at all times. The determination of whether an impairment substantially limits a major life activity should be made without regard to the beneficial effects of mitigating measures, such as medication, assistive devices or technology, prosthetic devices, or learned behavioral or adaptive neurological modifications. In addition, a person is protected under the ADA if they have a record of having a disability but no longer have it, or are

regarded as having a disability, whether or not they actually have one. For example, an individual may have a record of a disability if they previously received treatment for substance use disorder or received special education services while in school. In addition, a companion with a disability, e.g. a grandparent who accompanies the parent to meetings, is protected by the ADA and may be entitled to accommodations or auxiliary aids/services.

Tips to Ensure Effective Communication

- Utilizing plain language (written and orally), at appropriate comprehension level for the parent/caregiver;
- Speaking slowly during meetings and phone calls, when necessary;
- Making sure their mouth and facial expressions are visible for a parent/caregiver who uses lip or speech reading;
- Reviewing audiovisual training materials to ensure they can be provided in an accessible format;
- Sending email or text reminders of visits or other important information that a parent/caregiver has trouble processing or remembering when conveyed verbally, etc.
- Sending voicemail reminders of visits or other important information that a parent/caregiver may have trouble processing or remembering when conveyed in writing, etc.;
- Providing written summaries of tasks or important information from meetings;
- Providing visual aids to convey important information, such as a calendar of upcoming visits, meetings, appointments for the child, etc.; and
- Allowing the parent/caregiver's support person to assist in their expressive or receptive communication with the worker.

In such situations, the Social Worker must cooperate with the parent/caregiver in providing the needed assistance.

Common Communication Aids and Services

The list below includes some examples of common communication aids or services. **This is not an exhaustive list and is only meant to illustrate types of aids or services the Department may need to provide to ensure effective communication:**

- Providing American Sign Language (ASL) interpreters, Certified Deaf Interpreters (CDI), and CART services to individuals who are Deaf or hard of hearing;
- Using assistive technology like a video relay service to make contact;
- Making sure materials provided electronically are compatible with screen readers used by individuals with vision disabilities (e.g. are in Microsoft Word format and have been checked for accessibility);
- Qualified readers, taped texts, large print or Braille materials; and
- Scheduling longer meeting times for a parent/caregiver who uses a communication board to assist with speech.
- Note-taking during meetings.
- Frequent breaks during meetings.

- Allowing a trusted friend or family member to assist in taking notes, or to act as a communication aid/support, if requested by the parent/caregiver and appropriate under the circumstances, as long as that person is not a minor child.
- Allowing a trusted friend or family member to act as a communication aid/support on a given occasion does not alleviate the Department's responsibility to offer appropriate communication aids in the future.

In addition, the Regional Disability Specialists can provide guidance on resources to effectively interview a non-verbal child.

Tools to Help Identify Appropriate Accommodations

When determining what reasonable accommodation may be appropriate, the Social Worker may:

- Ask questions of the parent/caregiver and, with the parent/caregiver's permission, may gather more information from the parent/caregiver's companion and medical and other providers if necessary (as described above) to help identify an accommodation.
- Ask the parent/caregiver to share an IEP, if they had one;
- Ask the parent/caregiver what accommodations they have found helpful in the past;
- Consult with the Regional Disability Liaisons, the Director of Disability Services and Disability Coordinator; and
- Speak to their Supervisor, and, as they do when finding resources to address any parent/caregiver need, brainstorm with their colleagues.

Throughout the process and before implementing an accommodation, discuss and get approval from the individual with a disability, recognize their expertise and empower them and allow them some agency in the decision/determination. This discussion and engagement with the parent/caregiver should continue after the accommodation has been granted, including at all action planning meetings with the family.

Common Examples of Reasonable Accommodations

Examples of reasonable accommodations include, but are not limited to:

- Changing the frequency, duration, or location of parent/caregiver-child visitation;
- Arranging for hands-on learning during child medical or early intervention services appointments;
- Tailoring parenting skills training to needs of parent/caretaker, such as increasing frequency or providing supplemental training, hands-on instruction, in-home demonstrations, audiovisual materials (e.g., step-by-step reminders), providing plain language training materials at appropriate literacy levels;
- Obtaining adaptive parenting equipment;
- Providing more frequent support from a Social Worker;
- When requested by the parent/caregiver with a disability or their representative, arranging for an assessment by a qualified professional with expertise on that parent's specific disability;
- Using accessible spaces for family time in the community or the office;

- Writing an action plan in plain language at an appropriate literacy level;
- Allowing the parent, or their chosen companion, to take notes/serve as liaison (to assist in processing) during meetings;
- Extending family time so a parent has additional time to practice and demonstrate the parenting skills they have learned;
- Allowing additional time for clients with physical disabilities to travel to in-person meetings with Department staff; and
- Allowing meetings to occur via Zoom or other online meeting platforms as appropriate.

Common Examples of Referrals

In working with parents/caregivers or children with disabilities, the Department will make referrals as needed for the parents/caregivers and/or children to meet its obligations to make reasonable efforts to prevent placement out of the home and to provide reasonable accommodations. Some referrals may include further assessments of a parent/caregiver or their child. Such referrals may include, but are not limited to:

- Referral for a parental capacity evaluation;
- Referral for Department of Developmental Services programs or services for parent/caregiver or child;
- Referral for Department of Mental Health programs or services for parent/caregiver or child;
- Referral for evaluation by a developmental pediatrician;
- Referral for Early Intervention services for child; (see Early Intervention Policy);
- Referral for educational/688 transition planning (see Education Policy and 688 Transition Planning Policy);
- Referral for community based supports and services (including specialized services for children and families with disabilities from diverse backgrounds); and
- Referral for specialized services for people with disabilities (such as parenting classes at a Deaf independent living center tailored to parents who are Deaf or hard of hearing).

# Appendix C: Requesting Communication Access for Deaf and Hard of Hearing Individuals

## COMMUNICATION ACCESS OPTIONS

**American Sign Language (ASL) Interpreters:**

- American Sign Language is a visually interactive visual spatial language that uses a combination of hand motions, head, hand and body movement, and facial expression. There is no written form, and it is not a direct translation of English. ASL Interpreters are rigorously trained to accurately convey communication between spoken English and ASL and vice versa. ASL may or may not be the interpreter's native language.

**Deaf Interpreters (DI):**

- Deaf Interpreters are individuals who have native or near-native fluency in ASL and Deaf culture as well as specialized training in the use of gesture, mime, props, drawings, and other extralinguistic techniques to accurately convey meaning. DIs are often needed when the Deaf person has experienced language deprivation, is DeafBlind, their primary language is a sign language from another country, the setting is tense or emotionally overwhelming, the text of the communication is denser than everyday speech, and/or their communication includes home signs. Because DIs are native users of ASL and act as cultural brokers, they can ensure that Deaf clients are able to receive and convey the most accurate communication.

- Deaf Interpreters always team with ASL Interpreters. The DI interprets the Deaf person and relays what the Deaf person said to the ASL Interpreter. The ASL Interpreter then interprets that information into spoken English for the other non-signing participants. This process also works in reverse; the ASL Interpreter conveys the spoken English information to the DI, who then interprets it for the Deaf person.

**Deaf-Blind Interpreters:**

- A Deaf-Blind Interpreter provides close-vision, tracking, or tactile signing in conjunction with ASL to convey and receive information from individuals who have hearing **and** visual interpreting needs. This type of service can be offered by either Deaf Interpreters or ASL Interpreters who specialize in this service. Typically, it is necessary to send a total of 4 interpreters (2 Deaf Interpreters and 2 ASL Interpreters) to meet this communication access requirement.

**Communication Access Realtime Translation (CART) Captioning**

- A CART captioner is a specially trained and certified individual who uses a stenographic keyboard to transcribe what is said verbally in real time. The text displays either on a laptop computer, tablet, or smart phone.

**Oral Transliterators:**

- An Oral Transliterator is an individual trained to articulate speech silently and clearly to assist an individual to understand spoken language through lip reading. The request form from the Massachusetts Commission for the Deaf and Hard of Hearing does **not** contain an option for oral transliterators, as these requests are rare.
- If an Oral Transliterator is needed, please complete an online request and state that an Oral Transliterator is needed in the "Service Description" Field. Additionally, please email the MCDHH Legal Referral Specialist at legal.ref@massmail.state.ma.us.

**INFORMATION TO KNOW BEFORE SUBMITTING A REQUEST:**

- Ask the consumer what their preferred communication access method is[1].
- Interpreters can work in person or remotely depending on the situation. In-person communication access is preferred for in-person meetings. Do not request remote access without checking with the consumer first.
- Interpreters can work alone for short assignments but typically must work in pairs for assignments longer than one hour. Two interpreters may also be required for meetings with a large number of speakers.
- Ask the consumer for alternative dates/times for the scheduled event, in case MCDHH cannot secure an interpreter or CART captioner at your preferred date/time.
- Longer meeting times are needed to support communication access. A visit that is normally expected to take one hour should be anticipated to run 1.5 - 2 hours with communication access services.
- Prior to submitting a request to MCDHH, please obtain alternate dates/times from the consumer and include these on the request form, in case MCDHH cannot secure an interpreter or CART provider at your preferred date/time.
- Please submit requests to MCDHH as far in advance as possible. MCDHH strongly encourages a lead time of at least **14 days minimum notice** for all requests to have the best chance of securing an interpreter or CART captioner. Barring an emergency, requests with less than 2 business days' notice will not be filled.
- If you are requesting ASL interpreting services **and** CART services, you will need to **submit two separate requests** and put that information in the service description section of each request form.
- If you are requesting an ASL Interpreter **and** a Deaf Interpreter, you only need to complete one request form, but **make sure that you state** that you need both ASL and Deaf Interpreters in the service description section of the form. You can select "ASL Interpreting" on the request. MCDHH will add Deaf Interpreting services to the request once the request is in the system.
- If it is not possible to submit a request with 14 days advance notice because communication access is needed for a response, a removal, or other emergency, you should immediately contact the **MCDHH EMERGENCY NUMBER at 800-249-9949** and leave a message. MCDHH may direct you to its main number: 617-740-1600.
    - Then, fill out the MCDHH online form and indicate in the comments section that you have called the emergency number to make a request. Follow up with your Regional Disability Specialist.
- Once you make the request through MCDHH, you will receive an automated email acknowledging your request (subject line will read "Interpreter Request Received"). **This does not mean your request has been filled**. After MCDHH secures an interpreter or CART captioner, you will receive two emails confirming your request has been filled (subject lines will read "Request Filled" and "Assignment Filled"). Please review this email carefully to confirm the details are correct.
- MCDHH must receive **cancellations** at least **two full business days** prior to the scheduled event, or the Department will be billed. To cancel requested MCDHH services, go to https://www.mass.gov/forms/request-to-cancel-interpreting-cart-services. If you need to reschedule a request, you must cancel the original request and re-submit a new request.

[1] You do not need a family's permission to contact MCDHH during a screening of a 51A report or investigation of a 51B response if contacting the family will result in harm to the child. If you have asked the individual and still do not know what type of communications access accommodation to request, inform the MCDHH Legal Referral Specialist by email at legal.ref@massmail.state.ma.us. MCDHH will also contact you as the requestor if there are any questions about the interpreter selected and will schedule the appropriate provider to provide communication access.

## HOW TO COMPLETE THE ONLINE FORM TO REQUEST COMMUNICATION ACCESS SERVICES

Request an interpreter or CART captioner online through the MCDHH's referral system by filling out the online form located at: https://www.mass.gov/how-to/how-to-request-an-asl-interpreter-or-cart-provider

**"Region Category" Field:**

- If the event is in-person, choose the meeting location. If it is remote, choose the city where the consumer lives.

**"Requestor Information" Field:**

- Enter your first and last name, job title, individual email address, and cell phone number at which you can be reached at the time of the scheduled event. **This information is important, to ensure that the provider can contact you on the day of the scheduled event**.

**"Business/Organization Information" Field:**

- Enter the name and address of the DCF Area Office.

**"Billing Contact Information" Field:**

- Do not check off the "Billing Contact is same as Requestor" box.
- Enter "MCDHHAP" in the First name field, Last name field, and Contact Title field.
- In the Contact Email field, enter: mcdhhap@mass.gov
- In the Contact phone field, enter: 617-740-1600

**"Nature of Event" Field:**

- Enter a summary of the request in **detail** (e.g., "Requesting an ASL/DI interpreter team for an in-person parent visit on April 8, 2026, from 2-3 PM. Parent needs DI in addition to ASL interpreter due to cognitive delays in addition to being Deaf").
- Describe any alternate dates and times that can be scheduled if a provider is not available for your preferred time. If the date is fixed (e.g., a set time for a parenting class), indicate that alternative dates are not an option.

**"Service" Field:**

- Pick the type of communication access from the pull-down bar (ASL, ASL remote, CART, DI, DI remote). For in-person visits, in-person interpretation is preferrable. If the meeting includes a DCF consumer, you must select a "legal" interpreter or captioner.

**"Number of Resources" Field:**

- Select 1 if requesting a CART captioner or one interpreter and 2 if asking for a team of interpreters.
- If you are requesting both ASL and CART, you will need to **submit two separate requests** and put that information in the service description section of each request form.

**"Service Description" Field:**

- Enter a simplified summary of the request for communication access (e.g., "Requesting an ASL/DI interpreter team for an in-person parent visit").

**"Start/End Dates" Field:**

- Longer meeting times are needed to support communication access. A visit that is normally expected to take one hour should be anticipated to take 1.5 - 2 hours with communication access.
- If you need to make a request for multiple dates, please click the "ADD" button on the right side of the screen.

**"Onsite Information" Field:**

- If the services are provided on-site, please select “onsite”. Then enter the address. Include any necessary information about the exact address, parking, pets, and any instructions about accessing the apartment building or door.
- If the event will be remote, please select “remote” and use this field to add the link to the meeting. If the link is not available at the time of the request, you can write “link will be provided” **and then** follow up with the Legal Referral Specialist (Legal.Ref@MassMail.State.MA.US) once the link is obtained so that it can be added to your request for services.
- Please provide the name, email address, and phone number of your supervisor or another individual who can serve as a backup contact. **This information is important, to ensure that the provider can contact you on the day of the scheduled event.**

**“Client Customer Information” Field:**

- If you know the name of the person that will be receiving communication access, select the first radial button and enter the person’s first and last name. If there are multiple individuals that will be receiving communication access (e.g., multiple family members), click “add” to add additional names.
- If the communication access is for a group of non-specific individuals, select the third radial button.

**Submit Button:**

- Once you have completed the request, click “Submit Online Service Request.” In order to successfully submit, you must check off the two boxes under “Terms of Service”. Once submitted, you will get a confirmation pop-up on your screen. It may take a minute to process, so don’t keep clicking the submission button multiple times or you will submit multiple requests. This is **not** confirmation that the requested service has been secured.

## ENSURING YOUR REQUEST IS FILLED

- Email the automatic response confirming that MCDHH has received the request to DCF-MCDHH-Requests@mass.gov. This is **not** confirmation that the requested service has been secured. A separate confirmation email will be sent – see below.
    - If you do not receive an auto-response by the end of the day, inform your Regional Disability Specialist.
- When MCDHH schedules a provider, they will send you a confirmation email with an Assignment Number and the name(s) of the provider(s).
    - Check the confirmation email to ensure that the information is accurate (number, date, time, location, etc.) and has an assignment number. If the information is not correct, email legal.ref@massmail.state.ma.us at MCDHH and include the Regional Disability Specialist on that email.
    - Send a copy of the confirmation email to DCF-MCDHH-Requests@mass.gov. T**his step is necessary to ensure that the providers are paid**.
- Send the communication access provider any materials that will be presented or discussed at the meeting (i.e., agendas, action plans, PowerPoints, releases, materials shared during a training session, etc.).
- If the service is being provided remotely, make sure you have provided the link on the request form or have emailed it to the Legal Referral Specialist (Legal.Ref@MassMail.State.MA.US)

## WORKING WITH INTERPRETERS, CAPTIONERS AND DEAF AND HARD OF HEARING INDIVIDUALS

- Speak directly and look at the individual and not the communication access provider(s) (i.e., do not say to an interpreter, “tell them…”).
- Speak at your natural pace/volume unless the interpreter or transcriber tells you to alter your speaking.

- To ensure full communication, wait for the consumer to finish communicating with the interpreter and then for the interpreter to finish the communication before moving on to the next part of the conversation.
- If the meeting includes written materials, provide the materials prior to the event to both the consumer and the interpreter.
- Before the meeting starts, ask the interpreter or CART captioner where they would like to position themselves to ensure that the consumer can see the signed communication or view the transcription.
- Check the venue to ensure there is adequate lighting and reduce all sources of background noise.
- If the interpreter or CART captioner is going to be providing communication remotely, give them screen access or co-host capability so that they can adjust the remote features.
- For remote interpretation, always use Zoom rather than Microsoft Teams. Each area office, Regional Disability Specialist, and Legal Disability Liaison have access to paid Zoom accounts[2] that can be utilized for remote interpretation and virtual meetings.

[2] Free Zoom accounts will not work for meetings over 40 minutes.