

 <p style="text-align: center;">Massachusetts Department of Correction <b>POLICY</b></p>	Effective Date <p style="text-align: center;">1/21/2025</p>	Responsible Division <p style="text-align: center;">Deputy Commissioner, Administration</p>		
	Annual Review Date <p style="text-align: center;">1/21/2025</p>			
Policy Name <p style="text-align: center;">103 DOC 108 INSTITUTION POLICY ON PROGRAM/FACILITY ACCESS FOR DISABLED PERSONS</p>	M.G.L. Reference: M.G.L. Chapter 22 §13A; M.G.L. Chapter 124 §1(c) and (q); M.G.L. Chapter 151B Section (4)(16); ADA Accessibility Guidelines (ADAAG), current edition; Executive Order 526; Americans with Disabilities Act of 1990 (or its current edition)			
	DOC Policy Reference: 103 DOC 201; 103 DOC 208			
	ACA/PREA Standards: 1-CTA-2D-03; 2-CO-1C-09-1; 4-ACRS-6A-04; 4-ACRS-6A-04-2; 4-ACRS-7E-03; 5-ACI-2C-11; 5-ACI-2F-03			
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></td> <td style="width: 50%;">Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></td> </tr> </table>	Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Applicability: Staff/Inmates/Visitors	
Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Location: DOC Central Policy File Superintendents' Policy Files			
<p><b>PURPOSE:</b> The purpose of this document is to establish Department of Correction policy concerning program/facility access for disabled staff, visitors, and inmates.</p> <p><b>RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:</b> Deputy Commissioner, Administration Director of Resource Management Director of Diversity and Equal Opportunity Superintendents</p> <p><b>CANCELLATION:</b> This policy cancels all previous Department policy statements, bulletins, directives, orders, notices, rules, or regulations regarding program/facility access for disabled individuals in correctional institutions which are inconsistent with this policy.</p> <p><b>SEVERABILITY CLAUSE:</b> If any part of this policy is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.</p>				

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**108.01**

**DEPARTMENT POLICY**

- A. It is the policy of the Department, pursuant to M.G.L. Chapter 22, Section 13A and the current edition of American Disability Act Accessibility Guidelines (ADAAG), to ensure that the new institutions/facilities are constructed in a manner to be accessible and usable by disabled persons.
  
- B. All plans for a new correctional institution/facility construction and plans for renovation of existing correctional institutions/facilities shall comply with the ADAAG current edition, Massachusetts Building Codes and Architectural Barriers Board regulations as required to the extent that such compliance is consistent with essential security requirements.
  
- C. It is the policy of the Department to ensure that existing programs, activities, and services in established institutions and facilities under the direction of the Commissioner, are readily accessible and usable by disabled persons. Consistent with 28 C.F.R. §§ 35.130(h), 35.139(a)-(b), 35.150(a)(3), the Department need not provide accommodations in the following circumstances:
  - 1. If the accommodation will result in a fundamental alteration in the nature of a program, activity, or service or in undue financial or administrative burdens. The decision that an accommodation would result in a fundamental alteration or in undue financial or administrative burdens must be made by the Commissioner or designee, after considering all resources currently available for use in the funding and operation of Department programs and services, and must be accompanied by a written statement of reasons documenting that conclusion, in accordance with 28 C.F.R. §§ 35.150(a)(3) and 35.164;
  
  - 2. If the accommodation will result in actual risks or impairment of the safe operation of a Department program, activity, or service, in accordance with 28 C.F.R. § 35.130(h);
  
  - 3. If the person seeking to participate in or benefit from the Department program, activity, or service, poses a direct threat to the health or safety of the person or others. To determine whether a person poses a direct threat, 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 ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of Auxiliary Aids or Services will mitigate the risk, in accordance with 28 CFR § 35.139 (b).

- D. Programs shall operate in a manner which provides for the full and nondiscriminatory participation of the eligible disabled in all areas which do not threaten the security of the institutions or the personal safety of the disabled person.
- E. Any employee or applicant with a disability, regardless of self-identification may be entitled to receive a reasonable accommodation to a known physical or mental limitation of an otherwise qualified employee, in accordance with Executive Order 592, Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action and the American with Disabilities Act of 1990 (or its current edition) and M.G.L. Chapter 151B unless the Department can demonstrate that this accommodation would cause undue hardship to a correctional institution's or facility's operation. All requests for reasonable accommodation should be directed to the Office of Diversity and Equal Opportunity utilizing the Formal Request for Reasonable Accommodation form (103 DOC 206, *Access to the Americans with Disabilities Act Request for a Reasonable Accommodation and Self-Identification of Disability for Employees, Job Applicants, Contractors and Vendors, Attachment #2*).

**108.02**

**ARCHITECTURAL BARRIERS**

The Department shall pursue an objective of providing a barrier-free environment in all correctional institutions/facilities. Each Superintendent shall develop a plan which will include but not be limited to:

- A. The provision of shower, bath, and lavatory rails in those areas occupied and used by physically disabled persons as described in M.G.L. Chapter 22, § 13A.
- B. The use of Department classification procedures to explore options, such as transfer to a more suitable institution or a unit within an institution, which may be better equipped to deal with the needs of a particular disability.
- C. Housing assignments of inmates to areas which shall not place undue stress upon them because of their disability (e.g., persons with serious heart problems should normally be housed on a lower tier or lower floor level).
- D. The provision of ramps, elevators, or chair lifts wherever practicable to those authorized areas which would otherwise be inaccessible to disabled persons. Such authorized areas may include, but are not limited to:
  - 1. Classrooms
  - 2. Visiting Rooms

3. Health Services Unit
4. Dining Room
5. Recreation Areas
6. Work Areas
7. Chapels

**108.03**      **DISABLED VISITORS**

Each Superintendent or designee shall develop a plan which shall allow maximum visitor accessibility for those who are disabled. The plan should specify the time contemplated to complete the plan and should include, but not be limited to:

- A. Specific areas where ramps may be necessary;
- B. Accessible restrooms, including handrails;
- C. Clearly marked reserved parking space or spaces where available;
- D. An accessible water fountain if one is presently available (i.e., lowered or paper cup dispenser);
- E. An accessible telephone if a public telephone is presently available (i.e., lowered).

**108.04**      **AVAILABILITY OF RESOURCES/PRIORITIES**

The modification or renovation of existing areas not in conformance with this policy shall further be subject to the availability of capital resources. Provided such resources are available, priority shall be given to those public areas affecting access to an institution or facility which are the only areas requiring compliance by the Architectural Access Board. If access is currently not available, then 103 DOC 108.02 (B) of this policy shall be utilized. Any proposed modification to the physical plant of an institution or facility must be reviewed and approved by the Director of Resource Management.