

 <p style="text-align: center;">Massachusetts Department Of Correction</p> <h1 style="text-align: center;">POLICY</h1>	Effective Date	4/21/2022	Responsible Division  Deputy Commissioner, Administration
	Annual Review Date	3/21/2022	
Policy Name	<p style="text-align: center;">103 DOC 108 INSTITUTION POLICY ON PROGRAM/FACILITY ACCESS FOR DISABLED PERSONS</p>		
	<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)</p>		
	<p>DOC Policy Reference: 103 DOC 201</p>		
	<p>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 PREA: 115.06</p>		
<p>Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Inmate Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Applicability: Staff/Inmates/Visitors</p>	
<p>Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>		<p>Location: DOC Central Policy File Superintendents' Policy Files</p>	
<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**

1. It is the policy of the Department, pursuant to M.G.L. Chapter 22, Section 13A and the current edition of ADAAG, to ensure that the new institutions/facilities are constructed in a manner to be accessible and usable by disabled persons.
2. All plans for a new correctional institution/facility construction and plans for renovation of existing correctional institutions/facilities shall comply with the American Disability Act Accessibility Guidelines (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.
3. 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:
  - (a) 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;
  - (b) 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);
  - (c) 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).

4. 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.
5. Any employee or applicant with a disability, regardless of self-identification (see 103 DOC 201, *Selection and Hiring*, 201.03), 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 526, 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 (Attachment #1).

## **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:

1. 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.
2. 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.
3. 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).
4. 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:
  - a. Classrooms
  - b. Visiting Rooms
  - c. Health Services Unit

- d. Dining Room
- e. Recreation Areas
- f. Work Areas
- g. 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:

1. Specific areas where ramps may be necessary;
2. Accessible restrooms, including handrails;
3. Clearly marked reserved parking space or spaces where available;
4. An accessible water fountain if one is presently available (i.e. lowered or paper cup dispenser);
5. 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 (2) 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.

CONFIDENTIAL

FORMAL WRITTEN REQUEST FOR REASONABLE ACCOMMODATION

INSTRUCTIONS: Full assistance shall be provided to any applicant/employee seeking to utilize this formal process of request for reasonable accommodation. The individual requesting shall have the opportunity for a thorough discussion with the ADA/504 Coordinator when these forms are provided.

The purpose of providing reasonable accommodation is to enable a person with a disability to perform the essential functions of the job. Therefore, information is necessary to determine:

- (a) whether the requestor actually requires a reasonable accommodation, and
(b) the nature and extent of the accommodation, if one is required.

This information will be used only for the purpose of taking voluntary action to overcome the effects of conditions limiting opportunities for persons with disabilities. Although the information is being requested on a VOLUNTARY basis and will be kept CONFIDENTIAL, your failure to provide us with sufficient information necessary for us to make a reasonable accommodation determination may result in a decision that does not adequately address your needs.

I WISH TO INITIATE A FORMAL REASONABLE ACCOMMODATION REQUEST.
NAME: \_\_\_\_\_ DATE OF REQUEST: \_\_\_\_\_ DOB \_\_\_\_\_
ADDRESS: \_\_\_\_\_
(STREET) (CITY)
(STATE) (ZIP) (TELEPHONE)
WORK LOCATION: POSITION TITLE: HOW LONG IN YOUR POSITION:
LENGTH OF SERVICE WITHIN THE DOC \_\_\_\_\_
WORK TELEPHONE: \_\_\_\_\_ WORK E-MAIL: \_\_\_\_\_
ACCOMMODATION REQUESTED (See below):
LIMITATIONS REQUIRING ACCOMMODATION:
POSITION/SERVICE/EXAMINATION FOR WHICH ACCOMMODATION IS REQUESTED:

TO THE EMPLOYEE/APPLICANT: If you have received these forms without the benefit of explanation or if you have questions regarding this process, please contact the ADA/504 Coordinator at the telephone and/or address found at the bottom of this form.

**TYPE OF ACCOMMODATION REQUESTED**

**1. MODIFICATION OF DUTIES/ASSIGNMENTS:** includes, but is not limited to, job modification, job tasks, flexible time to allow for transportation and/or medical schedules, task modifications, reassignment of job tasks, etc.

**2. ACCESS:** includes, but is not limited to, physical accessibility of parking lots, entrances, rest rooms, work stations, cafeterias, elevators, etc.

**3. PURCHASE OR MODIFICATION OF EQUIPMENT OR DEVICES:** includes, but is not limited to, push button telephones, hand controls for dictating devices, speaker phones, telephone amplifiers, Braille typewriters, dictating machines, optical scanners, telecommunication devices, noise activated equipment, etc.

**4. WORK-RELATED PERSONAL ACCOMMODATIONS:** includes, but is not limited to, utilization of additional staff as a method of overcoming a physical or mental handicap, readers, drivers, interpreters, personal care attendants for imposed travel, etc.

**ADDITIONAL INFORMATION THAT REQUESTOR FEELS IS RELEVANT:**

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**SIGNATURE OF REQUESTOR OR PERSON**

\_\_\_\_\_  
**RELATIONSHIP TO REQUESTOR  
ACTING ON HIS/HER/THEIR BEHALF**

IT IS THE AGENCY POLICY TO PROCESS ALL FORMAL REASONABLE ACCOMMODATION REQUESTS WITHIN TWENTY (20) WORKING DAYS OF THE DATE THE REQUEST IS RECEIVED, EXCEPT IN SITUATIONS WHEN THE REQUESTOR MAY NEED AN EARLIER ACCOMMODATION TO MEET VITAL HEALTH OR SAFETY NEEDS. IF ACCOMMODATION IS REQUESTED TO ASSIST WITH THE APPLICATION PROCESS OR A DECISION REQUIRES MEDICAL INFORMATION, THE AGENCY WILL BE ALLOWED CONSIDERATION FOR SPECIAL TIME REQUIRED.

THE INDIVIDUAL REQUESTING A REASONABLE ACCOMMODATION WILL RECEIVE A WRITTEN RESPONSE.

Form should be marked **CONFIDENTIAL** and mailed or delivered to:

ADA/504 Coordinator: Janice Perez, Director of the Office of Diversity & Equal Opportunity

Address: 50 Maple Street, Suite 2, Milford, MA 01757

Telephone: (508) 422-3690 e-mail address: Janice.Perez@doc.state.ma.us

If you have further questions, please contact the Program Coordinator for the Disabled, Office of Diversity and Equal Opportunity, 727-7441, TTY 727-6015.



**MEDICAL INQUIRY FORM IN RESPONSE TO AN ACCOMMODATION REQUEST**

- For any questions to complete this form please contact Janice Perez, ADA Coordinator, DOC Office of Diversity and Equal Opportunity, 50 Maple Street, Suite 2, Milford, MA 01757 (508) 422-3690.
- For Correction Officers and Correctional Program Officers please review the list of the 7 essential functions enclosed to be addressed in the physician’s letter.
- This form must be signed by a physician along with the Doctor’s letter.

**Employee Name:** \_\_\_\_\_

**To be completed by the employee:**  
**A. Questions to help determine the nature of the request.**  
 A reasonable accommodation is any change in the work environment that helps an employee perform the essential functions of their job or to enjoy the benefits and privileges of employment. To be eligible for a reasonable accommodation you must establish the connection between your disability related limitations and the specific request you are making. If you have a disability that limits the ability to do the essential/core functions of your job, your employer must provide a reasonable accommodation, unless the accommodation requested poses an undue hardship. Additionally once an accommodation has been provided you must be capable of performing the essential functions of your job.

**1. What limitation(s) due to a disability do you have that interferes with your job performance?**

\_\_\_\_\_

**2. What job functions are you having trouble performing because of the limitation(s)?**

\_\_\_\_\_

**3. Describe how this limitation(s) interferes with your ability to perform the job function(s)?**

\_\_\_\_\_

**To be completed by the medical provider:**  
 You have been asked to complete this form on behalf of your patient who requested a disability related workplace accommodation from their employer. The employer seeks verification that your patient has: 1) a disability as defined by the ADA (See B below) and that: 2) their disability results in the functional limitations described in A above (See C below).

**B. Questions to verify disability.**  
 For reasonable accommodation under the ADA, an employee has a disability if he or she has an impairment that substantially limits one or more major life activities. The following questions may help determine whether the employee has a disability as defined by the ADA.  
**Note:** The questions should be answered based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, and learned behavioral or adaptive neurological modifications. Mitigating measures do not include ordinary eyeglasses or contact lenses.  
 The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as provided by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. “Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.



**According to the ADA, major life activities may include but are not limited to:**  
 This is for information purposes only – **do not circle**. This will be used to answer the question below.

Caring for Self	Walking	Hearing	Lifting	Bending
Interacting With Others	Standing	Seeing	Sleeping	Reading
Performing Manual Tasks	Reaching	Speaking	Concentrate	Eating
Breathing	Thinking	Learning	Reproducing	Working
Toileting	Sitting	Communicating		

1. Does the employee have a physical or mental impairment that substantially limits a major life activity? <b>Note: Does not need to significantly or severely restrict the life activity to meet this standard.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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**According to the ADA, major bodily functions may include but are not limited to:**  
 This is for information purposes only – **do not circle**. This will be used to answer the question below.

Immune	Genitourinary	Brain	Musculoskeletal
Normal Cell Growth	Hemic	Respiratory	Cardiovascular
Digestive	Special Sense Organs or Skin	Circulatory	Reproductive
Bowel/Bladder	Lymphatic	Endocrine	Neurological

2. Does the impairment substantially limit the operation of a major bodily function? <b>Note: Does not need to significantly or severely restrict the bodily function to meet this standard.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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**C. Verification of functional limitation(s).**

1. Does your patient have the functional limitation(s) described in A-1?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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2. Is the functional limitation due to their disability?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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3. What is the anticipated duration of the impairment?	
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**D. Comments:**  
 Employers are obligated to make reasonable accommodations to allow their employees with disabilities the opportunity to perform the essential functions of their job provided the requested accommodation does not fundamentally alter the nature of the job or result in an undue administrative or financial burden.

In order to help us work with our employee, do you have suggestions on accommodations that might be provided?  
 Note: Your suggestions will be used in the interactive process with the employee. The specific accommodation you suggest may or may not be the accommodation ultimately provided.

**E. Medical Professional Information and Signature.**

Name:		License:	
Address:		City/St./ZIP:	
Medical Professional's Signature:		Date:	

The Massachusetts Department of Correction  
Office of Diversity and Equal Opportunity

Authorization for Release of Medical Information

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“I, \_\_\_\_\_, hereby authorize the Department of Correction’s ADA Coordinator or the Coordinator’s designee to speak to the physician who completed or provided the medical certification/documentation accompanying my reasonable accommodation request. This authorization is limited to information about my disability, including the nature, severity, and duration of the impairment, the activities that it limits, and the extent to which it limits my ability to perform those activities. The purpose of the documentation is to enable the Department of Correction to determine whether I am a qualified individual with a disability, evaluate how these limitations affect my ability to perform the essential functions of the job, and evaluate my accommodation request.”

This authorization shall expire in one (1) year from the date of signature.

\_\_\_\_\_  
Full name of Employee

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Legal Representative (where applicable)  
(please print)

\_\_\_\_\_  
Signature of Legal Representative  
(where applicable)

\_\_\_\_\_  
Date of Signature