**MASSACHUSETTS OFFICE ON DISABILITY**



**DISABILITY HANDBOOK FOR THE EXECUTIVE BRANCH**



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# Executive Branch Disability Handbook

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## Introduction

### Overview of MOD

The Massachusetts Office on Disability (MOD) was created in 1981 under Chapter 6, Section 185 of the Massachusetts General Laws, for the purpose of advancing the rights of people with disabilities in all aspects of life. Among other duties, MOD serves as the ADA Coordinator for the executive branch of the Commonwealth, and the guidelines set forth in this handbook apply to all executive branch entities.

More information about the services MOD provides can be found on [the MOD website](https://www.mass.gov/orgs/massachusetts-office-on-disability) or by calling (617) 727-7440 or toll free at (800) 322-2020 (both V/TTY). For resources including contact information for Executive Branch ADA Coordinators and MOD’s Disability Laws Booklet, please see the [ADA Compliance for Executive Branch Agencies page](https://www.mass.gov/americans-with-disabilities-act-compliance-for-executive-branch-agencies).

### How to use this handbook

This Handbook is a guide for executive branch employees to understand their obligations and options for making their agencies’ services and facilities accessible to employees and members of the public.

[Executive Order 592](https://www.mass.gov/executive-orders/no-592-advancing-workforce-diversity-inclusion-equal-opportunity-non-discrimination-and-affirmative-action) affirms the commitment to fostering inclusion and access that permeates all Executive Branch programs, services and activities. While certain aspects of providing access for people with disabilities are fairly straightforward (American sign language interpreters for Deaf individuals, assistive listening systems for hard of hearing individuals, ramps for mobility access, and Braille documents for blind individuals and large print versions for people with partial vision losses, for example), others are more nuanced and sometimes overlooked. This Handbook attempts to address all facets of accessibility and equal opportunity.

The Executive Branch is committed to ensuring that individuals with disabilities have access to employment opportunities, programs, services and activities. When business is conducted in accordance with this commitment, providing accessibility becomes a matter of matching the solution to the need. Often, barriers are erected when people with disabilities are overlooked as potential or actual consumers precisely because of their disabilities; thinking proactively about access will make it easier for executive branch entities to ensure accessibility. This Handbook strives to provide the information and tools necessary for staff of the Executive Branch to incorporate the basic principle of accessibility in all we do.

This Handbook is maintained by the General Counsel of the Massachusetts Office on Disability. Questions about the content of this handbook can be directed to the MOD General Counsel, Julia O’Leary, at Julia.E.OLeary@mass.gov or 617.727.7440 x27324.

***Disclaimer***: The materials contained in this book are not under a copyright. This book may be quoted or photocopied without consent. However, we request that you attribute the material to the Massachusetts Office on Disability. This book is not intended to be comprehensive. It offers a succinct overview of the most frequently referenced laws related to disability. Laws and regulations change frequently. The summaries in this book reflect the laws and regulations in effect on January 1, 2022. Please refer to the laws and regulations directly for the current text.

### Legal Framework

Both federal and state law prohibit disability-based discrimination by state entities. At the federal level, there are two major statutes that apply: Section 504 of the Rehabilitation Act (“Section 504” or “504) and the Americans with Disabilities Act (ADA), 42 USC 12101 et seq. Section 504, passed in 1973, was the first federal statute to provide protection against discrimination for people with disabilities. The statute prohibits discrimination based on disability by any program that receives federal funding. The ADA was enacted in 1990 and expanded Section 504’s nondiscrimination requirements to apply to state and local governments and businesses. The ADA prohibits disability-based discrimination in employment, government services, public accommodations, including public transit, and telecommunications.

The Commonwealth of Massachusetts has enshrined civil rights protections for people with disabilities in Article 114 of the Massachusetts Constitution, which provides,

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

This constitutional provision is implemented by the Massachusetts Civil Rights Act, which guarantees people with disabilities (with reasonable accommodation) the same rights as other people, such as the rights to contract, to inherit, to purchase, to lease, to sell, to participate in lawsuits and to receive the full benefit of the law. People who believe their rights under Article 114 have been denied may file a lawsuit in Massachusetts Superior Court. Massachusetts also prohibits discrimination on the basis of disability in housing and employment, M.G.L. c. 151B, which will be addressed more fully in the sections below.

### Definition of Disability

The Americans with Disabilities Act and MGL Ch. 151B § 1(17) define a “disability” as:

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

This is intended to be a broad definition to ensure the eradication of discrimination. Ameliorating measures, such as medication, assistive technology, or auxiliary aids or services, are not to be considered when evaluating whether an impairment substantially limits a major life activity.

### Contacts

| **If you have questions about:** | **Contact:** |
| --- | --- |
| 1. Legal aspects of disability rights
2. Access requirements for executive branch entities
3. Appointing a new ADA Coordinator
4. Accessibility training
 | Massachusetts Office on DisabilityJulia O’Leary, General CounselOne Ashburton, Place, Room 1305, Boston, MA 02108Julia.E.OLeary@mass.gov617-727-7440 x 27324 Voice or TTY617-727-0965 FAX800-322-2020 x 27324 Toll Free in Massachusetts[www.mass.gov/mod](http://www.mass.gov/mod)  |
| 1. Your own ADA accommodation request as an employee or as a consumer of a state agency
 | Massachusetts Office on DisabilityDisability Rights Unit [Contact Us Form](https://www.mass.gov/forms/contact-the-massachusetts-office-on-disability)617-727-7440 Voice or TTY617-727-0965 FAX800-322-2020 Toll Free in Massachusetts |
| 1. Sign Language Interpreters
* CART (communication access real time translation) and remote CART
* Captioning
* Loop or other amplification devices
 | Massachusetts Commission for the Deaf and Hard of HearingInterpreter/CART Referral Service600 Washington StreetBoston, MA 02111 8:45 AM- 5:00 PM, Monday - FridayVoice: 617-740-1600 OR 800-882-1155 (toll free)TTY: 617-740-1700 OR 800-530-7570 (toll free)Video Phone: 617-326-7546 Fax: 617-740 -1810Email: MCDHH.Office@state.ma.us <http://www.mass.gov/mcdhh> |
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|
|
|
| * Braille
* Audio tape
* Large Print
* Best formats for electronic files
 | Massachusetts Commission for the BlindTechnology for the Blind ProgramJohn Oliveira, Deputy Commissioner 600 Washington Street – 3rd FloorBoston, MA 02111Voice: 617-626-7509 VoiceFax: 617-422-0419 Email: John.Oliveira@mass.gov[www.mass.gov/mcb](http://www.mass.gov/mcb) |
| * Workplace accommodations process for executive branch employees with disabilities
 | Office of Diversity and Equal OpportunitySandra Borders, DirectorOne Ashburton Place, Room 213Boston, MA 02108[www.mass.gov/hrd/odeo](http://www.mass.gov/hrd/odeo) Sandra.E.Borders@mass.gov617-727-7441 Voice617-727-6015 TTY617-727-0568 Fax |

## Basic Principles of Access

For purposes of this Handbook, “accessibility” refers to the ability of people with disabilities to participate in and enjoy the benefits of programs or activities conducted by the executive branch.

Agencies must ensure that their programs, services, and activities are accessible by removing physical and communicative barriers that prevent the full participation or access of people with disabilities. Agencies are not required to make each facility, or each part of a facility accessible, but they must ensure that the overall programs, services, and activities they offer are accessible. For example, not every restroom in a facility need be accessible. Rather, entities should provide signage to direct people with disabilities to accessible features and spaces.

Structural changes are not the only way to improve physical access in existing spaces or facilities. For example, entities can move public meetings to accessible buildings or floors and can relocate services for people with disabilities to physically or communicatively accessible rooms or areas of buildings. When determining the most appropriate way to make a program accessible, agencies should prioritize options that offer the most integrated setting appropriate.

### Physical Access

The Americans with Disabilities Act requires that all facilities designed, constructed, or altered by, on behalf of, or for the use of a state agency must be readily accessible and usable by individuals with disabilities, if the construction or alteration began after January 26, 1992. “Readily accessible and usable” means that the facility must be designed, constructed, or altered in strict compliance with either the [2010 ADA Accessibility Standards, 28 CFR 35.151](https://www.ada.gov/regs2010/2010ADAStandards/Guidance2010ADAstandards.htm), or the [Massachusetts Architectural Access Board regulations (521 C.M.R.)](https://www.mass.gov/law-library/521-cmr). Where two sets of regulations differ, agencies should use the standard that provides the most access for people with disabilities.

Beyond the new construction design elements requiring access, there are practical, commonplace decisions Executive Branch staff can make to assure optimal physical access to Executive Branch programs and activities. Among the options to be considered:

1. Determine if adjacent parking lots provide accessible parking and that there is a clear, unimpeded path of travel from the parking (or the street) to the building.
2. Ensure aisles, pathways and doorways remain unobstructed by boxes, furniture, or other obstacles. Otherwise-accessible spaces may be rendered inaccessible when items are placed in areas that were not intended to be used as storage.
3. Determine that the building/facility has clear and unambiguous signage in high contrast, raised letters and Braille.
4. Arrange meeting rooms or seating areas so that any aisles between tables and/or chairs are sufficiently wide to allow clearance for wheelchairs, scooters, and other mobility aids.
5. When setting up chairs for meetings or events, include gaps in the seating plan to allow space for people who use wheelchairs or scooters.
6. Think about how people with different types of disabilities will access the building to make sure you aren’t overlooking a simple fix. For example, if a lift needs to be turned on, make sure the lift is turned on and ready to receive anyone needing the lift. Someone should not need to call or travel to find someone who can turn the power on.
7. Do not assume that all people with similar disabilities will want identical accommodations. If you are unsure of what to do, ask the person with a disability for guidance. Also, do not assume that a person only has one disability. People with visible physical disabilities may also have non-obvious sensory, developmental, mental health, or other invisible disabilities.

#### Interior Layout

The [Massachusetts Architectural Access Board (AAB)](http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-source/cmr/500-599cmr/521cmr.html) and the [U.S. Access Board](https://www.access-board.gov/) have issued extensive regulations to provide standards for accessible interior layouts. These regulations include detailed descriptions of requirements for all aspects of interior design, such as counter and stair heights and bathroom dimensions.

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

#### Entrances

Agencies must ensure there is a level path of travel to get into and through the building or facility. Entrances and internal doors need to be wide enough for a wheelchair to pass through and heavy doors need to be adjusted or equipped with automatic openers to allow people with disabilities to pass.

#### Parking and Drop-Off Areas

Agencies that do not offer parking to any visitors are not required to provide parking to visitors with disabilities. However, the availability of parking or a passenger drop-off area will increase accessibility for people with disabilities.

Agencies who do have parking should be mindful about how the parking is accessed and make sure the mechanism for accessing parking is accessible. For example, if parking is accessed through an intercom system, the agency should put alternate policies in place for people who are deaf or hard-of hearing.

Agencies who provide parking to visitors or employees must locate accessible parking spaces, including van accessible spaces, on the shortest accessible route to the accessible entrance of the building or facility. When designing parking, agencies should be mindful to ensure the accessible route does not cross a vehicular lane. If it is not possible to avoid the accessible route crossing a vehicular lane, agencies should mark the crossing. If the building or facility has multiple accessible entrances with adjacent parking spaces, the agency should provide accessible parking spaces near each accessible entrance.

#### Roads and Sidewalks

When streets and roads are newly built or altered, they must have curb cuts wherever there are curbs or other barriers to entry onto a pedestrian walkway or cross walk. Likewise, when new sidewalks or walkways are built or altered, they must contain curb cuts or sloped areas wherever they intersect with streets or roads. While resurfacing a street or sidewalk is considered an alteration for these purposes, filling in potholes alone will not trigger the alterations requirements. The [Massachusetts Architectural Access Board Regulations](https://www.mass.gov/aab-rules-and-regulations) and the [Public Rights of Way Accessible Guidelines](https://www.access-board.gov/prowag/) offer specifications for all elements related to streetscapes.

#### Historic Preservation Programs

Buildings and facilities that are part of historic preservation programs are subject to [special program accessibility requirements and limitations](https://www.ada.gov/taman2.html#II-5.5000). Historic preservation programs are agency programs that have preservation of historic properties as a primary purpose. An historic property is a property that is listed or eligible for listing in the National Register of Historic Places or a property designated as historic under the Massachusetts Historical Commission.

To achieve program accessibility under the ADA in historic preservation programs, an agency must give priority to methods that provide physical access to people with disabilities. Physical access is particularly important in an historic preservation program because a primary benefit of the program is the unique experience of the historic property itself.

Agencies are not required to take any action that would threaten or destroy the historic significance of an historic property. In cases where physical access cannot be provided because an alteration would destroy the historic significance of the property or would cause undue financial burden or fundamental alteration to the property, alternative measures to achieve program accessibility must be undertaken. Those measures might include videos of upper story rooms or closed-circuit television of activities taking place in inaccessible areas, etc.

If agencies are considering altering or renovating an historic property, the MAAB will require a specific process to follow for any item claiming historic significance as a reason to deviate from their codes. This would typically require a variance from the MAAB and supporting documentation from the Massachusetts Historic Commission.

### Communication & Information Technology Access

Agencies must take proactive steps to ensure they are prepared to meet a variety of communication needs, and must be prepared to provide specific accommodations through the use of a variety of auxiliary aids and services designed to enable people with disabilities to participate equally in events, programs and services offered. A little advance planning goes a long way to comply with this standard in a prompt and effective way.

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

* First, ask the person what generally works best for them. Try not to make assumptions about what will work for someone: ask!
* Familiarize yourself with various communication tools and services, such as sound loops, CART services, and sign language interpreter services.
* Second, use tools and resources at hand to begin the conversation. For example, if the individual is deaf and you need to convey a short message in the absence of a sign language interpreter, try writing notes. This can be done with a pad and pen, or on a computer where available, or using a speech to text application on a smartphone. Keep in mind that some people who are deaf use American Sign Language (ASL) as their primary language and are not fluent in written English, so written English may not be an effective form of communication for them.

#### Information and Signage

Make sure that information and signage at agency offices and facilities is accessible to all visitors and enables them to obtain information about the existence and location of accessible services, activities, and facilities. This means that signage should use high contrast colors, no-glare finishes, and large-sized font. Tactile characters and braille should be used as necessary and in accordance with either the [1991 ADA Design Standards](https://www.ada.gov/1991ADAstandards_index.htm) (for signage installed before 3/14/2012) or the [2010 ADA Design Standards](https://www.ada.gov/2010ADAstandards_index.htm) (for signage installed or replaced after 3/15/2012).

Agencies should provide signs at all inaccessible entrances to each facility, directing users to an accessible entrance or to a location where they can obtain information about accessible facilities. Use the international symbol for accessibility at each accessible entrance of a facility.

If interpreters are available at the office or facility, agencies should include the universal hearing access symbol, the letters ASL, or the interpreter symbol to direct visitors to where they can access those communication services.

#### Telephone

If the agency communicates with members of the public by telephone, employees should use telecommunication systems that are appropriate to meet the consumer’s needs. For example, a staff person can call the direct videophone number of a consumer who is deaf, which will automatically assign a qualified American Sign Language interpreter provided by the Video Relay System. Staff may also communicate with consumers by email, if appropriate. It is always advisable to offer a variety of communication options (phone, email, mail), to accommodate the diversity of consumers’ needs.

For more information about communication options for people who are deaf or hard of hearing, please see Appendix 5, “Telephone/Communication Access Compliance for Deaf and Hard of Hearing Consumers across the Commonwealth” or contact the [Massachusetts Commission for the Deaf and Hard of Hearing](https://www.mass.gov/orgs/massachusetts-commission-for-the-deaf-and-hard-of-hearing).

#### Websites and Web-Based Materials

Most computer-based services can be delivered in ways that are accessible to everyone. Consult  [EOTSS’ IT accessibility guidance](https://www.mass.gov/it-accessibility) for information about how to ensure [websites](https://www.mass.gov/guides/web-accessibility-standards) and [other applications](https://www.mass.gov/guides/enterprise-it-accessibility-standards) are accessible to people with disabilities.

When your agency is procuring new information technology services that will be used by staff and/or members of the public, make sure that accessibility is considered during the procurement process, and that any products procured comply with [EOTSS’ IT accessibility guidance.](https://www.mass.gov/it-accessibility)

Ensure that materials published on the agency’s website are accessible to a broad range of people. Written materials should be published in a high contrast, sans-serif font, at least 12 points or larger. Take care to make sure that documents are readable by a screen reader. For tips on how to produce accessible documents, see MOD’s Foundational Principles to Help Make Electronic Documents Accessible.

#### Webinars and Web-based Meetings

Webinars and web-based meetings must also be accessible to people with disabilities. This may mean providing a CART reporter or ASL interpreter upon request, so staff planning webinars should plan ahead to ensure that CART or an interpreter will be available for the event. Further information is provided in the section on [Meetings and Events](#_Meetings_and_Events) within this handbook and in [MOD’s Guidance on Accessible Meetings and Trainings](https://www.mass.gov/doc/accessibility-for-virtual-trainings-from-the-massachusetts-office-on-disability/download).

### Service Animals

Both the Americans with Disabilities Act and MGL c. 272 §§ 98 and 98A afford protections to people who use service animals. Service animals are animals that have been trained to perform a specific task for a person with a disability. Most people are familiar with people who are blind who use guide dogs, but a growing number of people with other disabilities are using service animals to help with tasks such as pulling wheelchairs, retrieving dropped items, alerting someone who is Deaf or hard of hearing to an environmental alert, or protecting someone who is about to have a seizure.

A few key points to keep in mind are:

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

### Meetings and Events

When sending out meeting invitations to a general audience (i.e. any audience that may include people with disabilities) or that includes attendees who are known to have disabilities, agencies must include a reasonable accommodation statement with the ADA Coordinator’s contact information. Any promotional materials associated with the event should include the same reasonable accommodation statement. Below is sample text of a Reasonable Accommodation Statement to include on registration forms and announcements:

Reasonable accommodations for people with disabilities are available upon request. You can make a request by sending an email to [Name of ADA Coordinator] at [ADA Coordinator email]. Please include your name and contact information, and the type of accommodation you will need, including as much detail as you can. Please be advised that while we will try our best to grant requests received after [date], they may not be possible to fulfill, so please make your request as soon as you know you will need it.

Generally, the agency hosting the meeting is responsible for providing reasonable accommodations for attendees that relate to the meeting itself (e.g., CART or ASL services, accessible meeting materials). If two or more agencies are co-hosting a meeting, the agencies should arrange beforehand how costs of any reasonable accommodations will be handled.

#### Planning ahead

For large meetings with a general audience that may include people with disabilities (e.g. public meetings where the agency anticipates large attendance), it is best practice to book CART and ASL interpreters as soon as the meeting is scheduled in order to ensure availability. CART and ASL services can then be cancelled at least 2 days prior to the event if no one has requested them. For particularly large, widely-attended meetings, with an undefined invitation list, it may make sense to keep both services even if you do not receive a specific request, in order to ensure maximum accessibility.

Make sure that meeting materials (agendas, PowerPoint slides, handouts) are accessible. MOD has published instructions for making print materials accessible. It is a good practice to send print materials at least a day before the meeting to ensure that attendees who use screen readers or who have learning or cognitive disabilities have time to review the materials before the meetings.

If the agency is hosting an in-person meeting in a building with security, be sure to alert security personnel to any reasonable accommodations that are necessary for attendees to pass through security.

#### During the meeting

1. At the beginning of the meeting, announce any available accessibility features. For example:

“For the [event] today, we have the following accessibility services available [list what you have arranged, e.g., sign language interpreters, Assistive Listening Devices, CART and/or captioning]. Agendas and handouts are available in large print, electronic format, and Braille. If anyone needs assistance accessing these accessibility services, please speak with [identify the designated agency staff who can assist].”

1. For in person meetings, announce the location of accessible restrooms at the beginning of the meeting.
2. If showing visual content during the meeting (i.e. charts, photographs), be sure you verbally describe the content. Tag any videos you use with audio descriptions.
3. Ask meeting participants to state their name before they speak. This is helpful both to people who are blind or visually impaired who cannot see the speaker, and to people who use CART or ASL interpreter services.
4. Avoid crosstalk, which can be difficult to interpret or transcribe for ASL interpreters and CART reporters.
5. Briefly verbally identify attendees as they come and go from the meeting, so that people who are blind or low vision know who is in attendance. (E.g., “Robert Jones from Department of Public Health has just joined the meeting.”)
6. If you will be doing a quiz or poll, keep in mind:
	1. Verbal/audio quizzes may need to be provided in print format.
	2. Written quizzes may need to be provided in video format.

If using a sign language interpreter:

1. For in-person meetings, ensure that there are clear lines of sight to the sign language interpreter and that the interpreter is well-lit (face and hands are not in shadow).
2. Be sure to introduce the sign language interpreter at the beginning of the meeting. If it is a web-based meeting, Pin the interpreter’s video.
3. If the meeting will be longer than 20 minutes, two interpreters will be required. For live meetings, little to no time is necessary for a transition, as one interpreter stops and the other will immediately begin interpreting. For web-based meetings, it can take a few moments to pin the new interpreter, so it is good practice to pause for a few moments until the interpreter is ready to begin.
4. Follow the guidance below on [hosting meetings with sign-language interpreters](#_Sign_Language_Interpreters).

If using a CART reporter:

1. For an in-person event, introduce the CART reporter before the event starts, so attendees who need to view the transcript can connect with the CART reporter.
2. For a web-based event:
	1. Be sure you have turned on closed captioning (CC) capability in the meeting software
	2. Assign CC to the CART reporter
	3. Introduce the CART reporter at the beginning of the event both verbally and in the chat feature and share the link to the CART transcript in the chat feature

Tips for web-based events:

1. Set clear expectations at the beginning of the meeting about how questions and comments from attendees will be moderated (i.e. will they be held to the end? How should people indicate they wish to speak?)
2. Consider how you will moderate questions or comments from attendees with disabilities who are unable to use the chat or “hand raise” features.
	1. It can be good practice to assign a staff person to watch out for people raising their hands on the video or otherwise indicating a desire to speak.

## Reasonable Accommodations and Modifications

### What is a reasonable accommodation or modification?

Reasonable accommodations or modifications are changes (either physical or programmatic) to the way the agency normally does things in order to allow a person with a disability to have access to the agency’s program. We typically use the phrase “reasonable accommodation” in the context of employment (covered by Title I of the ADA), and the phrase “reasonable modification” in the context of agency services, programs, and facilities (covered by Title II of the ADA).

There is no one-size-fits-all guide to accommodations or modifications: the type of accommodation or modification that a person needs will vary based on their individual circumstances. These circumstances include their particular disability and the requirements of their job or the state service, program or facility they are attempting to access.

Executive branch agencies must do their best to grant accommodations or modifications to people with disabilities. To arrive at an appropriate accommodation, the agency and the person making the request must engage in what is called the “interactive process.” The interactive process is a dialogue between the person making the request and the agency where they discuss the person’s needs, how the disability affects the person’s needs, and different ways that the agency can accomplish meeting those needs.

### Request process

#### Employees

Every agency must have a dedicated ADA Coordinator whose role it is to receive and respond to requests for reasonable accommodation by employees. ADA Coordinators who will be out of the office for an extended period must arrange for backup and must communicate who the backup person is so that staff needing accommodation know who to contact.

Employees may make a reasonable accommodation request to any agency supervisor or manager, or the agency’s ADA Coordinator. If a supervisor or manager who is not the ADA Coordinator receives a request for reasonable accommodation, they should immediately forward the request to the ADA Coordinator. ADA Coordinators are expected to reach out to the employee to begin discussing their request as soon as possible, and in any event, no longer than five business days. During this initial contact, the ADA Coordinator should ask for information from the employee about the accommodation requested and explain the interactive process as outlined below. The ADA Coordinator should also ask for any necessary documentation to support the request.

When reviewing requests for reasonable accommodations, ADA Coordinators are expected to engage in an **individualized assessment of the employee’s needs based on their functional limitation and on the essential functions of the employee’s job.** Agencies should not categorically bar any given type of accommodation.

In the employment context, the purpose of the interactive process is to assess how a person’s functional limitations due to their disability interact with the essential functions of their job. In order to engage in this process, the ADA Coordinator will need the following information:

* Information about the functional limitations related to the employee’s disability.
	+ The employee does not need to provide information about the diagnosis, only about the functional limitations caused by their disability.
	+ If the employee’s disability is not obvious, the ADA Coordinator may ask for a doctor’s note describing the functional limitations and confirming they are the result of a disability.
	+ The ADA Coordinator may not request medical documentation if the disability is obvious with respect to the employee’s need for an accommodation. For example, if a person who is blind asks for a braille keyboard or if a person who uses a wheelchair asks for a wheelchair-accessible cubicle, the ADA Coordinator does not need medical documentation to review the reasonableness of that request.
* Information about the essential functions of the job.
	+ The best source for this is the employee’s Form 30. You can also use the job description that was posted on MassCareers if the Form 30 is not available.
	+ Ask the manager the following questions to determine if a job function is essential:
		- Does the position exist to perform that function? ​
		- What is the consequence of the employee not performing the function?​
		- Are there other employees available to perform the function?​
		- What level of expertise/skill is required to perform the function?​

The interactive process will be a conversation between the ADA Coordinator and the employee and a conversation between the ADA Coordinator and the manager. The aim is to arrive at a conclusion that works for both the employee and the agency.

Sometimes, despite engaging in the interactive process, the agency will not be able to grant the person’s request because it would constitute an undue hardship or would fundamentally alter the nature of the agency’s program or the requestor’s job. If an agency denies the request for a reasonable accommodation, they should inform the employee how to appeal this decision.

Keep in mind that executive branch agencies typically cannot deny a request for reasonable accommodation based on cost alone, because when doing so, they must consider the entire executive branch budget, not simply the budget for their specific agency or program. In order to help agencies manage the cost of reasonable accommodations, ANF has established the [Reasonable Accommodation Capital Reserve Account (RACRA)](https://www.mass.gov/how-to/request-reasonable-accommodation-capital-reserve-account-racra-funds), which is managed by MOD. RACRA funds may be used to offset capital costs associated with granting a reasonable accommodation for an employee. Agencies seeking RACRA funding should reach out to MOD at MOD-RACRA@mass.gov.

ADA Coordinators are expected to issue a decision approving or denying requests for reasonable accommodations within 20 business days of receiving the request. Sometimes, where a request is particularly complicated or the agency needs to procure equipment, a request cannot be resolved within 20 days. In that case, ADA Coordinators should update the requestor, in writing, as to the status of the request at least every 30 business days.

#### Members of the public

Agencies should publicize the name and contact information of their ADA Coordinator so that members of the public know who to contact if they need a reasonable accommodation to access an agency program, service, or facility. This is often done on the ADA/Section 504 Public Notice, available in Appendix 1. Such notices should be posted on the agency’s website and in each facility. Contact information for the agency ADA Coordinator should be included on agency publications, including event fliers and application forms.

Reasonable modifications requests by members of the public are handled similarly to requests by employees, although typically the ADA Coordinator will not ask for medical documentation. The ADA Coordinator will need to understand the person’s functional limitation and how it relates to the person’s ability to access the agency’s program, service or activity. ADA Coordinators should meet with the program managers to determine whether the requested accommodation is possible without unduly burdening the agency or fundamentally altering the agency’s program, service or activity. Agencies are not required to provide personal devices such as hearing aids or wheelchairs, or personal services such as toileting or dressing assistance, if they do not provide those devices or services to all members of the public.

Agencies should respond to requests in a reasonable timeframe, and should keep in mind dates of events or deadlines for applications when considering the appropriate timeline. If an agency denies the request for a reasonable modification, they should inform the requestor how to appeal this decision.

### Handling complaints

#### Employee complaints

If an employee wishes to appeal the denial of their request for a reasonable accommodation, they can file an appeal with their Secretariat ADA Coordinator. Typically, this is done using a form provided with the response to the reasonable accommodation request. The Secretariat ADA Coordinator is expected to respond to the appeal within 20 business days. If the employee is unsatisfied with the response from the Secretariat ADA Coordinator, then they may appeal to the Human Resource Division’s Office of Diversity and Equal Opportunity (ODEO), who, again, is expected to respond within 20 business days.

#### Complaints by members of the public

All agencies must adopt grievance procedures for members of the public to follow when their request for a reasonable modification has been denied. A sample grievance procedure that can be used by executive branch agencies is available in Appendix 4.

### Common types of accommodations

#### Print Materials

When developing forms, publications, press releases, solicitations for consumer input, or other information gathering or disseminating tools and processes, be sure to consider the accessibility of both the content and the medium you elect to use. Existing documents that are not in accessible format must be made accessible for people with disabilities upon request.

Remember to include an accessibility statement in any documents you disseminate, including contact information for your ADA Coordinator.

Keep in mind the following tips:

* Sans serif fonts are easier to read. Sans serif fonts lack the little “feet” attached to each letter; Arial Narrow, the font used in this manual, is an example of a sans serif font. Times New Roman is an example of a serif font.
* For large print, the size of type required will vary with the needs of the reader. For generically produced large print materials, use a font size of 16 to 18.
* Use high contrast between colors when possible. High contrast means that there is a big difference in darkness or lightness between the background and the text on a page. Most basically, one should be dark, and the other light.
* Be mindful to avoid using red and green as contrasting colors, as people with red-green color blindness may not be able to differentiate the two colors.

Examples:

 This is an example of size 18 sans-serif high-contrast font.

 This is another example, with a dark background.

This is an example of serif print (not recommended).

#### Technology access

People with disabilities may need certain software to allow them to effectively use computer technology. Common software that a person may need includes screen readers, text enlargement software, and voice to text software.

Some assistive technology is built into computer operating systems. For example, basic accessibility features in computer operating systems allow users to adjust color schemes, contrast settings, and font sizes, or to navigate the screen using keystrokes rather than a standard mouse.

When purchasing new information technology products for an agency, ADA Coordinators should be aware of the types of assistive technology employees and members of the public commonly use so that they can effectively advise the agency about requirements for the new technology and any additional training needs or considerations for users who use assistive technology.

#### Meetings and Audio Materials

##### Video Description

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

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##### Assistive Listening Devices

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

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

**There are several types of Assistive Listening Device systems:**

1. **FM systems** transmit sounds via radio waves. With this system, the speaker wears a compact microphone and transmitter while the listener has a portable receiver with headphones, ear buds or a necklace. FM systems are commonly used when the speaker is required to move around. This system is not affected by light, but may experience radio interference from nearby radio stations or strong electromagnetic fields.
2. **Audio Induction Loops** are generally meant for installation in fixed locations such as public hearing spaces and meeting rooms, and are ideally installed when a new space is constructed since they are often placed under the floor or in the ceiling. A loop system will convert the sound input (usually from an existing public address or microphone system already in the room) to an electromagnetic field that is carried by the loop of wire encircling the desired area. This creates a weak magnetic field throughout the looped area which is designed to be picked up by hearing aid or cochlear implant users that have integrated Telecoil functionality in their devices (most devices do). This is then converted back into an audible sound source by the hearing aid, cochlear implant or induction loop receiver if the hard of hearing person has neither but still wishes to use the loop.
3. **Infrared systems** transmit sounds via light waves to users wearing receivers. The receiver must be in the transmitter’s line of sight to function properly. This limits where listeners with receivers can be located, but it also prevents spillover of sound into other areas and ensures privacy. Sunlight and bright incandescent light interfere with the transmitter signal, so an IR system may not be a good choice for outdoors. IR systems are often used in movies, conferences, and live performances.

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

##### Sign Language Interpreters

Sign Language Interpreters translate spoken English into sign language (often American Sign Language, or ASL). Keep in mind that ASL is not English, and some people with disabilities may speak ASL, and not English (including written English), as their primary language. Keep in mind the following best practices when communicating with a person through a sign language interpreter:

1. Speak clearly in a normal tone and at a natural pace; do not exaggerate lip movements.
2. For live events or meetings:
	1. Provide adequate lighting to allow people to easily view the interpreter’s hands and face. Avoid lighting that places a shadow on the interpreter or obscures their hands and face.
	2. Keep in mind sightlines when determining the location of the interpreter. Make sure interpreters can be seen clearly from anywhere in the room
	3. If possible, position the interpreter so that the person who is deaf or hard of hearing can see both the interpreter and the speaker.
3. For web events or meetings:
	1. Introduce the interpreter at the beginning of the session and pin the interpreter’s video.
	2. If multiple interpreters are needed, pause the conversation or presentation to allow time for the interpreters to switch.
4. If speakers during the event are likely to use acronyms, jargon, or vocabulary peculiar to a specific field, it is helpful to provide the interpreter with a list of such terms and their definitions in advance of the event.
5. Speak directly to the person who is deaf or hard of hearing instead of speaking through the interpreter. Remember that the conversation is with the person who is deaf or hard of hearing, not with the interpreter.
	1. Use second, not third, person language, when referring to the person who is deaf or hard of hearing (e.g. instead of saying to the interpreter, “ask her what she wants for lunch today,” say to the person who is deaf or hard of hearing “what would you like for lunch today?” and pause to allow time for the interpreter to interpret).
	2. Maintain eye contact with the person who is deaf or hard of hearing, not with the interpreter. Keep in mind that the person who is deaf or hard of hearing must look at the interpreter in order to understand what is being said.
	3. Realize that interpreters are speaking for the person who is deaf or hard of hearing. When interpreters say, “I” or “me,” they are speaking as the person who is deaf or hard of hearing, not as themselves.
6. Situations requiring one or more hours of interpreting may call for more than one interpreter. A team of two interpreters helps reduce the possibility of errors and lessens the likelihood of injury due to the stressful repetitive motions required by interpreting. When interpreters work as a team, they will generally switch roles every twenty to thirty minutes.
7. Do not attempt to have private conversations with a working interpreter. It is the interpreter’s job to convey everything that is said or heard, including efforts at engaging the interpreter’s attention. If you need to speak with the interpreter about an altogether different matter, please use the interpreters to inform the person who is deaf of this so they know why you are continuing to speak to the interpreter when the event has ended.
8. If there is any question as to the best arrangements for a particular situation, ask the interpreters and the people who are deaf or hard of hearing. They are the experts on what will work best for them.
9. ASL interpreters can be booked through [MCDHH’s Statewide Interpreter and CART Referral Service](https://www.mass.gov/statewide-interpreter-and-cart-communication-access-realtime-translation-referral-service).

##### CART (Communication Access Real time Translation)

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

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

Another form of CART is sometimes referred to as “voice writing.” A trained voice writer will listen to everything being said and repeat it into a special pickup microphone connected to voice recognition speech-to-text software. Since this system is calibrated to recognize the voice writer’s speech pattern, this system achieves a higher accuracy rate than unknown individuals speaking into the same software.

Either method of CART can be delivered remotely by offsite CART providers who listen in on the conversation through an open telephone line and transcribe what is said to a web page, which is accessible to the consumer in real time. This is helpful when local CART writers are not available, or when hosting a web-based meeting but comes with caveats. If remote CART reporters are used for an in-person meeting, be mindful about providing adequate microphone coverage to capture all voices in the meeting, since the CART reporter cannot capture what they cannot hear. It is also helpful for speakers to identify themselves so that the CART reporter can capture who is saying what.

CART providers should be given a list of any unusual words or acronyms that will be used, as well as a list of the attendees who are likely to speak so that they can ensure the transcriptions are as accurate as possible.

CART reporters can be booked through [MCDHH’s Statewide Interpreter and CART Referral Service](https://www.mass.gov/statewide-interpreter-and-cart-communication-access-realtime-translation-referral-service).

##### Captioning and Subtitling

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

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

Subtitling is different from captions in that it does not display anything other than the dialog, and it rarely includes other auditory information.

There are two categories of captions:

1. ***CLOSED captions*** are captions that are hidden in the video signal and are not visible until the captioning feature has been turned on, either at the source level (cable box) or at the television level.
2. ***OPEN captions*** are captions that have been decoded, so they have become an integral part of the television picture, like subtitles in a movie. Open captions cannot be turned off.

Agencies can procure captioning services through the Statewide Contract ITS61 or by [downloading a free Caption and Description editing tool, CADET,](http://ncamftp.wgbh.org/cadet/) developed by the National Center for Accessible Media at WGBH. Auto-generated captions vary wildly based on speech patterns and ambient background noise and are generally not suitable for critical captioning needs.

## Requirements for Executive Branch Agencies

### General Requirements

Executive Branch Entities must comply with certain basic administrative requirements to ensure effective interaction and participation with people who have disabilities. They must:

* 1. Appoint an ADA/504 Coordinator who reports directly to the agency head, as required by Executive Order 592. Agencies must notify MOD of all such appointments using the [ADA Coordinator Designation Form](https://www.mass.gov/doc/executive-branch-new-ada504-coordinator-designation-form-1/download).
	2. Post a Public Notice of Non-Discrimination (Appendix 1)
	3. Establish ADA/Section 504 Compliance Policy (Appendix 2)
	4. Establish a Grievance Procedure for consumers and employees (Appendix 3)

#### The ADA/504 Coordinator

The ADA/504 Coordinator is responsible for facilitating the agency’s compliance with state and federal disability laws. The person designated as the ADA/504 Coordinator must have knowledge of state and federal disability laws and must be able to effectively communicate the requirements of these laws to management.

The ADA/504 Coordinator is the agency’s primary internal resource to provide disability related technical assistance, and therefore must have sufficient authority to make decisions and must have direct access to the agency head to discuss matters that directly impact the agency’s employees, policies, procedures, programs and provision of services. Executive Order 592 requires that the ADA/504 Coordinator report directly to the Agency Head.

The ADA/504 Coordinator should possess well-developed interpersonal skills and the ability to deal with sensitive, emotional, or potentially contentious interpersonal matters. This person should possess the ability to exercise discretion in handling confidential information and be skilled at assisting individuals to overcome resistance and change behavior in addition to possessing motivational skills. The ADA/504 Coordinator should be resourceful and knowledgeable with respect to inter-agency and inter-governmental relations and be willing and able to foster partnerships and relationships that will result in better and more complete access for people with disabilities.

Executive Branch Entities must follow the ADA Coordinator Appointment Process outlined below, and must notify MOD of the appointment of new ADA/504 Coordinators by submitting a completed [ADA/504 Coordinator Designation Form](https://www.mass.gov/doc/executive-branch-new-ada504-coordinator-designation-form-1/download) to MOD. MOD will arrange for the ADA/504 Coordinator to receive appropriate training and will work with the ODEO to ensure the ADA/504 Coordinator has access to necessary agency files.

#### ADA/504 Coordinator Appointment Process

1. Agency selects ADA Coordinator
	1. ADA Coordinator should have the following experience/skillset:
		1. Experience in ADA/disability issues
		2. Understand confidentiality requirements
		3. Strong organizational skills
		4. Strong communication skills
2. Agency completes ADA Coordinator Designation Form and sends MOD the form and the prospective ADA Coordinator’s resume
3. MOD reviews & approves selection
	1. If MOD does not approve selection, MOD will meet with the agency to discuss its concerns, and MOD and agency will seek to arrive at a solution (for example, training, job-shadowing, or identifying alternative ADA Coordinator)
	2. MOD will issue approval to the agency in writing and schedule training for the new ADA Coordinator
4. ADA Coordinator takes MOD ADA Coordinator training
5. MOD alerts ODEO that new ADA Coordinator has been appointed & trained
6. ODEO sends ADA Coordinator Quiz
7. ADA Coordinator passes quiz with 80%
	1. If doesn’t pass quiz, takes again
8. ADA Coordinator gets access to HR/CMS panels
	1. Orientation with ODEO on navigating the disability panels in HR/CMS
9. ADA Coordinator attends ongoing trainings offered by MOD/ODEO.
10. If MOD has reason to believe that ADA Coordinator is not sufficiently trained to perform their role, MOD may:
	1. Raise the issue with the Agency Head for the agency the ADA Coordinator serves
	2. Require additional training for the ADA Coordinator
	3. Recommend removal of the ADA Coordinator

#### Public Notice

All public entities, including state agencies, must inform employees and consumers of the protections of the ADA and MGL Ch. 151B. This notice of non-discrimination must be posted in a public area and/or must be made available in other ways.

It is important to remember the target audience of this notice is *everyone* who interacts with or who would potentially interact with the agency. This notice must be provided on an ongoing basis. This notice should appear in job postings, on the agency’s website, at all agency worksites or facilities, in program handbooks, in activity schedules, and in meeting announcements.

It is also important to keep in mind the requirements to provide effective communication (see later in this Handbook) may require this notice be posted in ways other than a printed notice on a bulletin board. Please provide said public notice in at least size 16 font with at least 1-inch margins.

A sample public notice is included in Appendix 1.

#### ADA/Section 504 Policies and Procedures

Executive Branch entities must establish policies and procedures for complying with the ADA and Section 504 of the Rehabilitation Act. A sample of ADA/Section 504 Policies and Procedures can be found in Appendix 3.

Agencies are prohibited from using criteria or methods of administration:

* That subject qualified individuals with disabilities to discrimination;
* That defeat or substantially impair accomplishment of program objectives related to individuals with disabilities; or
* That perpetuate disability-based discrimination by another agency or entity.

These prohibitions apply both to direct agency actions and indirect actions through contractual or other arrangements.

An agency must make reasonable modifications in policies, practices, or procedures to provide an equal opportunity for participation or access by a person with a disability.

Examples of policies that might require modification include (1) mandating a driver’s license as the only form of ID to purchase alcohol, (2) requiring a child who uses a wheelchair to be accompanied by an attendant at a summer day camp, (3) enforcing a “no-dogs” policy without making an exception for service animals, (4) imposing a surcharge to cover the cost of a needed accommodation, or (5) or requiring one to communicate verbally on the telephone when there are other equally effective means of communication available.

An agency may only deny a request for such a modification if the requested modification would fundamentally alter the nature of the service, program, or activity, if it would create a safety risk, or if it would place an unacceptably high financial or administrative burden on the entity. In the event that a requested reasonable modification would result in a fundamental alteration or undue burden, the agency must attempt to identify other reasonable modifications that would allow the individual with a disability to receive the benefits or services provided by the agency without causing a fundamental alteration or undue burden.

### Grievance Procedure

The ADA requires that an informal procedure be established to address any complaints of non-compliance of discrimination and to provide a prompt and equitable resolution. A sample grievance procedure for use by Massachusetts Executive Branch Entities can be found in Appendix 4.

### Program Accessibility

Program accessibility means that an agency’s programs, services, and activities are accessible to the public. This can happen either through intentional accessible design on the front-end, or through reasonable modifications on the back end. There is enormous variety in the techniques that agencies can use to make their programs accessible. This handbook describes a few common areas where accessibility is especially important below, please also review the sections on [communication and information technology access](#_Communication_&_Information) and [service](#_Service_Animals) animals to ensure your agency’s programs are fully accessible.

#### Contracting & acquisitions

When purchasing goods and services, agencies must be mindful that the goods or services purchased are accessible to people with disabilities. The Commonwealth Standard Form Contract and Instructions require compliance with all federal and state laws, including the ADA and Section 504 of the Rehabilitation Act, Massachusetts Amendment Article CXIV and MGL c.151. However, because the goods and services agencies purchase vary widely, it is impossible to cover all possible situations in a single standard form contract. Entities must ensure that Statements of Work generated for each contract are carefully written to ensure that access for people with disabilities is explicitly required. Statements of work should also describe how issues will be resolved as they occur over the life of the contract. MOD’s General Counsel is available to assist with appropriate contract language.

It is especially important that agencies are mindful of accessibility when engaging in IT procurements. Solicitation documents should require that any IT product or service comply with [EOTSS’ Enterprise IT Accessibility Policy](https://www.mass.gov/policy-advisory/enterprise-information-technology-accessibility-policy). Scopes of work should provide for appropriate accessibility testing prior to deployment and throughout the life of the contract. Accessibility testing services are available through [statewide contract ITS61](https://www.mass.gov/service-details/statewide-it-accessibility-services-contract-its61). Questions about digital accessibility can be directed to MOD’s Digital Accessibility Inbox.

Agencies must also ensure that their contracting practices do not discriminate against vendors with disabilities, and that all materials related to a procurement are available in formats that are accessible.

#### Licensing, certification & testing

Agencies may not discriminate on the basis of disability in licensing, certification, and regulatory activities. A person is a "qualified individual with a disability" with respect to licensing or certification if they meet the essential eligibility requirements for receiving the license or certification. An agency does not have to lower or eliminate licensing standards that are essential to the licensed activity to accommodate an individual with a disability.

Where an agency administers licensing examinations, it must provide auxiliary aids for applicants with disabilities and administer the examinations in accessible locations.

Agencies should also be careful to avoid imposing any requirements on licensees that would result in discrimination against qualified individuals with disabilities. For example, an agency’s safety standards may not require the licensed entity to discriminate against qualified individuals with disabilities in its employment practices.

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

#### Eligibility standards

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

#### Transportation

As a general rule, executive branch agencies do not need to provide transportation services unless they provide transportation services to all members of the public, regardless of disability. In certain circumstances, an agency may need to provide transportation for a particular person as an accommodation for his or her disability.

When arranging for transportation for a consumer, board member, or others participating in an agency program or service, the best practice is to ask the person if a lift equipped vehicle is needed, or if they require any other special equipment to get into or out of the vehicle.

In situations where it is part of the agency’s operations to provide transportation services to consumers, the agency must ensure that the transportation provided is accessible to people with disabilities. Note that the following guidance applies only where the transportation is incidental to the agency’s primary program, such as a campus shuttle service. It does not apply to public transportation systems, where the transportation is itself the primary service.

New vehicles purchased by the agency must be accessible to and usable by people with disabilities, and the agency’s transportation system as a whole must provide equal services to people with and without disabilities. The agency may also need to make other types of reasonable accommodations to meet the needs of individual consumers. Agencies are not required to retrofit existing vehicles with lifts, nor are they required to provide full-scale paratransit systems. Agencies may choose to go beyond these minimum requirements in order to more effectively serve their consumers.

#### Safety and Security

When making safety plans, executive branch agencies can use legitimate safety criteria that are necessary for safe operations of the agency. Any safety requirements imposed by the agency must be based on actual risks, and cannot be based on speculation, stereotypes, or generalizations about people with disabilities.

##### Building Evacuation

1. Each agency should establish procedures for evacuating staff, consumers, and visitors with disabilities within the overall agency or facility evacuation plan.
2. When giving directions in emergency or high stress situations, do not assume that people who are non-responsive are being uncooperative: they may not be able to see or hear you.
3. Generally, people who are deaf or hard of hearing do not benefit from public address systems or verbal instructions from security officers or other staff. Agencies should plan for how staff who are deaf or hard of hearing will be alerted and given instructions in case of an emergency. This may include providing lighted smoke and fire alarms instead of an intercom system and communicating evacuation instructions in writing (by email or written note).
4. During an evacuation, before attempting to help people who are blind, identify yourself and ask them if they would like assistance. If they accept your offer of assistance, allow them to take your arm; do not push or drag them along with you. If you are uncertain about what to do, ask the person how they would like to proceed.

##### Security Screening

Security screening services managed by an executive branch agency must be accessible to people with disabilities, and agencies must make accommodations based on individuals’ specific disabilities. Make sure that security personnel, including vendors, are trained to communicate effectively with people with disabilities. [MOD has a helpful online training about effective communication](https://www.youtube.com/watch?v=J0xvbFFiJrY). Here are some examples of scenarios you may encounter, and potential solutions:

* Some people wear medical devices that are not easily removed and may set off walk-through metal detectors. Be aware that the detector may go off and have wands available as well as walk-through detectors.
* Some medical devices may be disturbed by screening devices. Provide the option for alternative screening measures, such as pat down, as necessary and appropriate.
* Provide verbal instructions and cues to a person who is blind to ensure they can find the appropriate place to walk through the metal detector.

## Disability Primer

### Disability Terminology

People with disabilities have different preferences for how to speak about their disabilities. If unsure of how to refer to an individual’s disability, ask them and respect their wishes. When speaking or writing about disabilities more generally, there are a few rules of thumb, outlined below.

The disability community generally uses “person first” language, which puts the emphasis on the person rather than the impairment. Instead of labeling/defining a person based on their disability, put the person first, and if necessary, use the impairment as a descriptor. Say “person with a disability” instead of “disabled person” (i.e., put the word “person” first, and the descriptor second).

Some people with disabilities prefer “identity first language.” For some people, their disability isn’t just a diagnosis, it is a cultural identity, and they prefer to put that cultural identity first. If someone tells you they prefer “identity first language,” you could refer to them as a “disabled person.” Start with person-first language, but to be open to switching to identity-first language if someone asks you to. If you’re not sure what the right terminology is, do not be afraid to ask.

Some language to avoid:

* While the word “handicapped” is still used in some Massachusetts statutes, the word has fallen into disuse and should be avoided. Instead, you can say “person with a disability” or “accessible restroom/parking.”
* Do not use the article “the” followed by an adjective to describe people with disabilities. For example, avoid using the phrase “the Disabled,” and instead use “people with disabilities.”
* Language that implies people with disabilities are to be pitied, such as “impaired,” “victim,” “afflicted with,” “confined to.”
* Euphemisms such as “special,” or “differently abled.” Instead, use direct language.
* The word “normal” to describe people without disabilities. Use “people without disabilities.”

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

People who are: blind, Deaf or hard of hearing, developmentally disabled.

People with, or who have: intellectual disabilities, vision impairments, Cerebral Palsy, Down Syndrome, paraplegia, quadriplegia, seizure disorder, specific learning disability, speech impairment, or speech disability.

A person in a wheelchair is a “wheelchair user” or “uses a wheelchair.”

### Disability Etiquette

#### General Principles​

* Speak directly to the person with a disability, not to their interpreter or companion.​
* Offer assistance; do not just give it or assumed it is needed. If accepted, listen or ask for instructions.​
* Don’t apologize if you happen to use accepted, common expressions that seem to relate to a person’s disability. For example, if you say, “did you see that article in the newspaper this morning?” to someone who is blind, you don’t need to apologize for saying the word “see.” ​
* Don’t make assumptions.​
* Don’t be afraid to ask questions when you are unsure what to do.​
* Treat adults as adults.

#### Interacting with people with physical disabilities

* A person’s durable equipment, such as a wheelchair, is part of a person’s personal space. Do not hang on, lean on or touch wheelchairs, walkers, canes, or any assistive equipment without permission.
* Always ask permission before moving assistive equipment such as a cane, crutches, or a walker. ​
* Familiarize yourself with accessible routes, restrooms, entrances, and parking spaces when assisting someone.​
* When speaking with someone who uses a wheelchair for more than a few minutes, sit with them at eye level for a more comfortable conversation.

#### Interacting with people who have a cognitive disability

* During a conversation, if needed, allow for extra time to process information​.
* Use clear language​.
* Don’t take lack of response personally. It may take a few moments to process what has been communicated.
* Don’t take sudden emotions personally​.
* Direct eye contact can sometimes be intimidating; allow for a natural flow of comfortable conversation​.
* Allow for different styles of processing information​.

#### Interacting with people with a speech disability

If you did not understand someone with a speech disability:​

* Do not interrupt or finish their sentences.
* Politely ask the person to repeat what they said​.
* Repeat back what you think the person is saying, and ask the person to confirm your understanding​.
* If you still do not understand, be honest​.
* Ask the person to write or type information if needed​.
* Speak directly to the person, not to their interpreter or companion.

#### Interacting with people with a psychiatric disability

* Patience is extremely important​.
* Be understanding and sensitive to emotional stress​.
* Use a clear and calm tone of voice​.
* Do not assume those with psychiatric disabilities are automatically prone to violent behavior.

#### Interacting with people who are blind or low vision

* Always verbally identify yourself and others with you.
* Verbally announce when you are entering or leaving the room​.
* Don’t touch or grab a cane or the person to get their attention.
* Do not pet or distract a service animal.
* When walking with someone who is blind, caution them about any barriers in their path. Do not grab them; let them ask you for assistance.
* Use verbal descriptors when guiding or giving directions​.
* When explaining or referring to visual material, be descriptive​.
* Face the person when you speak.

#### Interacting with people who are deaf or hard of hearing

* Speak normally; articulate rather than amplifying your speech​.
* Keep your face and mouth unobstructed, and face the person with whom you are speaking.
* Do not speak while the person is looking down or away​.
* Do not speak over others; speak one at a time​.
* When an interpreter/companion is present, address and look at the person, not at their interpreter/companion.

## Appendices

### Appendix 1: Sample Public Notice



PUBLIC NOTICE

NON-DISCRIMINATION BASED ON DISABILITY

COMMONWEALTH OF MASSACHUSETTS

(AGENCY NAME)

The (AGENCY NAME) advises its employees and the public that it does not discriminate on the basis of a person's disability in employment or in access to its programs, services, and activities. (APPOINTING AUTHORITY NAME), (TITLE), has designated (ADA/504 COORDINATOR’S NAME), (TITLE), to coordinate efforts to comply with the requirements of Executive Order 592, the Americans with Disabilities Act, the federal Rehabilitation Act and various other federal and state laws protecting the rights of people with disabilities.

Inquiries, requests, and complaints should be directed to:

(NAME), ADA/504 COORDINATOR

(AGENCY NAME)

(STREET ADDRESS)

(CITY/TOWN, STATE, ZIP CODE)

(TELEPHONE NUMBER), (TTY NUMBER), (FAX NUMBER)

(E MAIL ADDRESS)

### Appendix 2: Sample ADA/Section 504 Policy

SAMPLE ADA/§504

COMPLIANCE POLICY

**1. GENERAL**

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

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

**2. PROGRAM LOCATION(S)**

Physical access to the programs and services of (AGENCY NAME) is a major focus of the ADA mandated self evaluation. All programs, services, and activities will be examined for compliance with ADA and applicable State architectural access codes.

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

Wherever equal access is limited or precluded by structural barriers, priority will be given to removal of these barriers over alternative methods of achieving program access.

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

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

**3. ELIGIBILITY CRITERIA FOR AGENCY PROGRAMS, SERVICES, AND ACTIVITIES**

(AGENCY NAME) will not impose eligibility criteria for participation in its programs, services, or activities that either screen out or tend to screen out people with disabilities, unless it can show that the criteria are necessary for the provision of the service, program, or activity.

* **SAFETY**

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

* **SURCHARGES**

(AGENCY NAME) will not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of measures such as the provision of auxiliary aids and services, barrier removal, alternatives to barrier removal, and other reasonable modifications that are required to provide that individual or group with a reasonable modification or any other form of nondiscriminatory treatment required by state or federal law, regulation or policy.

* **PUBLIC MEETINGS**

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

When publicizing public meetings, public bodies should provide contact information for (AGENCY NAME)’s ADA/504 Coordinator in order to allow members of the public to request reasonable accommodations, such as ASL interpreters or CART interpreters. Public bodies that hold remote public meetings should ensure that their teleconference or videoconference platform is accessible to people who have vision, hearing, or mobility impairments.

**6. COMMUNICATION**

**a. EMERGENCY**

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

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

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

**b. TELECOMMUNICATION DEVICES FOR THE DEAF - TTY**

 (AGENCY NAME) may have previously operated under the requirement that a TTY (a type of Telecommunication Device for the Deaf, (TDD)) be available and may have operated a dedicated TTY line to fulfill this requirement. Taking into consideration the fact that many Deaf individuals whose primary language is American Sign Language use videophones as primary means of communication, and that a federally funded Video Relay Service (VRS) exists which utilizes professional sign language interpreters to bridge the gap between Deaf callers and (AGENCY NAME), it is no longer necessary for a TTY to be located onsite unless it is known that (AGENCY NAME) has clients whose only form of communication is through TTY. Instead, staff should be trained on how to respond to VRS calls, and how to utilize VRS services to return calls from Deaf consumers. Since videophones are only to be used by Deaf individuals, there is no need to purchase videophones for (AGENCY NAME), although provision of a public videophone for Deaf consumers may be considered.

**c. RELAY SERVICES**

At least one employee at each program location will be trained in the use of the telecommunication relay service from the provider of this service or a functionally equivalent expert from the Massachusetts Commission for the Deaf and the Hard of Hearing. Executive Branch agencies should review Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH)’s “*Telephone/Communication Access Compliance for Deaf and Hard of Hearing Consumer across the Commonwealth*” policy.

**d. INTERPRETERS/ Communication Access Real-time Translation (CART)**

Upon being provided with reasonable prior notice of need, by a publicly announced deadline that is at least three weeks prior to the event or meeting, (AGENCY NAME) will provide American Sign Language Interpreters, Certified Deaf Interpreters (CDI) or Communication Access Realtime Translation (CART) for services and/or activities through the MCDHH Interpreter Referral Service.

**e. WRITTEN MATERIALS**

All written materials provided to consumers will, upon reasonable prior notice of need, be made available in the alternative formats such as large print, Braille, or electronically.

Written materials posted on (AGENCY NAME)’s website will be accessible. In the event that it would be an undue burden for (AGENCY NAME) to post an accessible version of a document on its website, an accessible version must be provided upon request.

**f. ASSISTIVE EQUIPMENT/TECHNOLOGY**

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

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

If a program uses televised or video information, the captioning must be turned on at all times. All movies and videos used in conjunction with consumer services or activities will contain captioning and audio description services. If such products are not available, alternative means of providing communication access, such as the previously described American Sign Language Interpreter or CART, must be provided when these items are used.

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

**4. INFORMATION TECHNOLOGY**

Where information technology is available to consumers or members of the public as part of any program, activity or service of (AGENCY NAME ) that technology shall conform to the [Commonwealth’s Enterprise IT Accessibility Policy](https://www.mass.gov/policy-advisory/enterprise-information-technology-accessibility-policy).

**5. TRANSPORTATION**

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

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

### Appendix 4: Sample Grievance Procedure

GUIDELINES & GRIEVANCE PROCEDURES RELATED TO DISABILITY-BASED DISCRIMINATION & REASONABLE MODIFICATION ACTION

GUIDELINES RELATED TO DISABILITY-BASED DISCRIMINATION & REASONABLE MODIFICATION ACTION

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

The entity will do the following:

* Publicize the Executive Branch Entity’s Grievance Procedure for reporting complaints of disability-based discrimination in state government programs, activities and services.

* Inform all staff and the public that they may report any complaints of discrimination or denial of reasonable modification to its ADA/504 Coordinator, to the MCAD, to the DOJ, or to the EEOC, as appropriate.

* Charge the ADA/504 Coordinator with adhering to Executive Branch Entity’s Grievance Procedure.

* Prominently display and disseminate its Grievance Procedure.

GRIEVANCE PROCEDURE

(Entity Name) has adopted an informal grievance procedure providing for prompt and equitable resolution of complaints alleging any violation of state or federal laws and regulations protecting individuals from discrimination based on disability in the provision of government programs, activities and services. The process established here does not substitute the more formal Massachusetts Commission Against Discrimination (MCAD) or appropriate federal Office of Civil Rights (OCR) complaint processes, and complainants may pursue complaints at those venues at any time.

Complaints related to employment are governed by the ODEO’s [*Guidelines for Implementing Executive Order 592*](#_Appendix_6:_Guidelines), and are not subject to the following grievance procedures.

* Complaints may be submitted to [Agency]’s (name the ADA/504 Coordinator), at (address), (telephone number), (e-mail). This person has been designated to coordinate resolution of complaints alleging discrimination based on disability in the provision of the agency’s programs, activities and services.

* A complaint must state the name, address, telephone number, and email address of the person filing the complaint and a brief description of the alleged discriminatory action and the date the action allegedly occurred.

* A complaint should be submitted to within a reasonable amount of time, but no more than 20 business days, after the action alleged to be legally prohibited.

* The ADA Coordinator shall investigate the complaint to determine its validity. These rules contemplate informal but thorough investigations. Complainants should be given a meaningful opportunity to submit evidence relevant to the complaint.

* The ADA Coordinator shall issue a written decision determining the validity of the complaint no later than 20 business days after its receipt. Where circumstances warrant, the ADA Coordinator will issue a corrective action plan with the decision. A copy of the decision, and any attached corrective action plan, will be provided to the complainant, the agency head and the agency’s general counsel.

* The ADA Coordinator shall maintain the files and records relating to complaints filed hereunder in accordance with the Massachusetts Statewide Records Retention Schedule.

* If the complainant is dissatisfied with the decision or corrective action plan, they may appeal the decision to the [Secretariat] ADA/504 Coordinator [name of Secretariat ADA/504 Coordinator] at [contact information for Secretariat ADA/504 Coordinator] within 10 business days after the date the decision was issued.

* The [Secretariat] ADA/504 Coordinator shall review the decision and corrective action plan, conduct such additional investigation as s/he deems appropriate to the circumstances, and issue a written decision affirming, reversing or modifying the original decision and/or corrective action plan within twenty [20] business days after receipt of the matter. The [Secretariat] ADA/504 Coordinator shall send a copy of the decision, and any attached corrective action plan, to the complainant, the agency ADA/504 Coordinator, the agency head and the agency’s general counsel.

* If the complainant is dissatisfied with the [Secretariat] ADA/504 Coordinator’s decision, he or she may request review by the Massachusetts Office on Disability (MOD). Requests for review by MOD may be sent to Julia O’Leary, MOD General Counsel, at Julia.e.Oleary@mass.gov, or by mail to:

Massachusetts Office on Disability

Attn: General Counsel

1 Ashburton Place, Room 1305

Boston, MA 02108

* The Massachusetts Office on Disability has twenty 20 business days to review the matter and issue a written decision affirming, reversing, or modifying the original decision and/or corrective action plan. If more time is needed, the Massachusetts Office on Disability will notify the complainant of the reasons for the delay and when a decision should be expected. The Grievance will be considered closed upon the issuance of MOD’s written decision.

* If a complainant files a complaint with the MCAD, the appropriate federal OCR and/or any other federal and/or state entity or any state or federal court regarding the same facts and circumstances, the complaint filed under these Grievance Procedures will be deemed administratively closed, and the resolution process under these Grievance Procedures will be terminated.

* These rules shall be liberally construed to protect the rights of interested persons, to meet appropriate due process standards and assure compliance with the law and regulations.

(Chief Executive Officer's Signature) (Entity Name)

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(Address) (Telephone) (TTY)

### Appendix 5: “Telephone/Communication Access Compliance for Deaf and Hard of Hearing Consumers across the Commonwealth”

The ADA defines relay services as telephone services that enable people who are Deaf or hard of hearing, or who have a speech disability to communicate with a person who can hear in a manner that is “functionally equivalent” to the ability of an individual without a disability to communicate by telephone.

The ADA required the Federal Communications Commission (FCC) to develop and enforce relay service regulations that encourage “the use of existing technology and do not discourage or impair the development of improved technology.” The FCC has used this directive as a means to improve relay services and foster the development of new technology so relay users are not left behind as these technological advancements occur.

In the Commonwealth, all individuals can enjoy communication access through our statewide MassRelay program. MassRelay is a free service for the residents of Massachusetts. It enables people who are Deaf, hard of hearing, late-deafened, or speech disabled to communicate over the phone. MassRelay is a free service available 24 hours a day and is accessed by dialing 711 from a telephone or Teletypewriter (TTY).

Today, in addition to MassRelay, Deaf and hard of hearing individuals can choose from many different relay service providers and a wide range of relay services:

◦ Voice Carry Over (VCO) for people who are Deaf or hard of hearing who communicate by speaking

◦ Hearing Carry Over (HCO) for people with a speech disability who use a TTY

◦ Speech-to-Speech (STS) relay service for people with a speech disability who use a telephone

◦ Non-English languages relay services, such as Spanish-to-Spanish

◦ Captioned Telephone Service (CTS) for people with a special “captioned telephone” that enables them to read what the other person is saying through captions displayed on the “captioned telephone”, while communicating through spoken language.

◦ Video Relay Service (VRS) is federally funded telecommunications service where a remotely situated American Sign Language interpreter interprets between a Deaf person who is using a video phone at one location and a hearing person who is using any voice phone, at another location. At the Deaf user's end, a videophone and a high speed internet connection are necessary; nothing is needed at the hearing caller's end.

◦ Video Remote Interpreter (VRI) is conceptually similar to VRS in that it uses a remotely situated ASL interpreter to interpret between a Deaf ASL user and a hearing person. The difference is that this service is not federally funded, and is designed to facilitate communication between a Deaf person and a hearing person at the same location, using a remotely situated ASL interpreter. For this service, a video connection and high speed internet is required for the location where the Deaf and hearing person are located.

◦ Internet Protocol Relay (IP Relay) service, an Internet-based system for people with a computer or other web-enabled device who communicate using text

◦ Internet Protocol Captioned Telephone Service (IP CTS), an Internet-based system that enables people to communicate by speaking and listening to what they can hear over a telephone, and read what the other person is saying through captions displayed on a computer or other web-enabled device

For more information about these forms of relay services, see the FCC factsheet at <http://www.fcc.gov/cgb/consumerfacts/trs.html> .

Relay services are provided at no cost (free) to all relay service users. State relay service programs provide and pay for some relay services, such as relay services used on in-state calls made through TTY, CTS and STS. The FCC oversees the Interstate Telecommunications Relay Fund which pays for other relay services, such as relay services used on interstate calls made through TTY, CTS and STS, as well as on all calls made through IP Relay, VRS, and IP CTS.

As technology has advanced, consumers have embraced these new methods of communication. It is the recommendation of MCDHH that providers adjust their expectations for communication access and meet the changing needs of the community by implementing updated policies and strategies. Today, many Deaf consumers use VRS and videophones, which do not require the entity on the other end (hospital, police, libraries, schools, and state services,) to have any specialized equipment. These newer methods provide real communication access by providing actual interpretation between two different languages. Video phones and VRS allow Deaf ASL users to communicate effectively in their own language, and have English interpreted into that language. This is an important advancement because TTY (Teletype) Relay does not enable interpretation between the two distinctly different languages of ASL and English. Many EOHHS agencies have stressed the importance of Deaf and hard of hearing constituents having access to their services and programs. In this effort, many state agencies have implemented policies and protocols related to TTY usage. These agencies typically have a dedicated TTY line which they publish and include on their business cards. This particular form of communication is almost obsolete. There are rare instances when a person may try to reach out via a TTY, but for the majority of Deaf and hard of hearing consumers; their preferred method of access is now through STS relay and VRS.

With these technological advances in mind, MCDHH recommends that state agencies review and update their policies as it relates to communication access for those that are Deaf and hard of hearing. This can occur by incorporating the above types of technology access in their ADA compliance and their Language Access Plans.

MCDHH recommends the following language be included in all publicly available materials where contact information is provided:

We value our clients, customers, and patients, who are Deaf and hard of hearing. In order to serve you most effectively , please use either your preferred Video Relay Service provider, the Massachusetts Telecommunications relay system at 711, or your captioned telephone to contact us at (xxx-xxx-xxxx) (insert your phone number & hour of operation)

If calling outside of our regular business hours, please leave a detailed message letting us know how we can help you, what your preferred contact method is, and any specific instructions that might be necessary. Alternately, you can email us at (provide your email here) and we will respond to you as quickly as possible, or you may submit a query through our form. (Link to a specific form here)

We recommend that business cards and publications be updated to include the 711 Relay number to ensure that this information is readily available to the general public.



MCDHH is available for consultation. Please contact Jonathan O’Dell at jonathan.odell@MassMail.State.MA.US for further information on how to provide effective telecommunication access.

1. 711 dialing is available nationwide to access non-Internet-based relay services such as TTY relay services, STS relay services, and VCO TTY, and HCO TTY relay services. For more information about 711, see [www.fcc.gov/cgb/consumerfacts/711.html](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.fcc.gov_cgb_consumerfacts_711.html&d=DQMFaQ&c=lDF7oMaPKXpkYvev9V-fVahWL0QWnGCCAfCDz1Bns_w&r=69l6maaC533y2zEa5-yfn1TXZ6u6wI5dKwrUX0HToEM&m=7EE19pnB_5G1-O44jV_HCdd21n5ylJKegy56ddtc96M&s=fw72FQlNcK9-gTCHidlQS-Iwy1PauSmNrBtR-4LXzHI&e=).

2. In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Petition for Declaratory Ruling, filed by AT&T, CAC, CSDVRS, LLC, GoAmerica, Inc., Lifelinks, LLC, Snap Telecommunications, Inc., Sorenson Communications, Inc., Sprint Nextel Corporation, and Viable Inc., CG Docket No. 03-123 (filed January 28, 2009
“National Association of the Deaf,” NAD: National Association of the Deaf, 2017, accessed January 24th, 2017, <https://www.nad.org/>.

### Appendix 5: Text of EO 592

[Executive Order 592](https://www.mass.gov/executive-orders/no-592-advancing-workforce-diversity-inclusion-equal-opportunity-non-discrimination-and-affirmative-action), issued by Governor Baker on October 22, 2020:

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

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

WHEREAS, the Executive Branch has an obligation to lead by example and to support a culture of inclusion that values and promotes diversity and equal opportunity for all persons;

WHEREAS, creating greater accountability and shared responsibility for achieving diversity and inclusion goals at all levels of the Executive Branch will promote steady and sustainable progress;

WHEREAS, effective strategic diversity management practices enhance employee productivity, nurture the development of employees at all levels, and strengthen the Commonwealth’s ability to deliver excellent customer service to an array of diverse residents, businesses, and other stakeholders;

WHEREAS, the Executive Branch of the Commonwealth holds its employees to the requirements of state and federal non-discrimination laws and to the standards established by the Commonwealth’s policies, in order to maintain a workplace free from discrimination;

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

NOW,THEREFORE, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § I, Art. I, do hereby revoke Executive Order No. 526 and order as follows:

**Section 1**. This Executive Order shall apply to all state agencies in the Executive Branch, as defined below. As used in this Order, the following words shall have the following meanings:

“Discrimination”,

* Conduct in violation of state or federal non-discrimination laws;
* Unfair treatment because of an individual’s membership in a protected class under state or federal non-discrimination law; or
* Unfavorable treatment of an individual as compared to others similarly situated with respect to the terms, conditions, or privileges of employment because the individual is a member of a class protected by law. Discrimination may involve, but is not limited to:

Harassment, by creating, or allowing to exist, an environment hostile to an individual’s membership in a protected class;

Failing to provide a reasonable accommodation to an individual’s disability; or

Pursuing a practice or policy, which, while it appears neutral on its face, has a disproportionate and unfavorable impact on individuals who are members of a protected class.

“State agencies”, all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established.

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

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

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

**Section 5**. All Executive Branch contracts entered into after the effective date of this Order shall contain provisions prohibiting contractors and subcontractors from engaging in discriminatory employment practices, either by intent or effect; requiring contractors to certify that they are in compliance with all applicable state and federal laws, rules, and regulations governing fair labor and employment practices; and requiring contractors to commit to purchasing supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons, veterans (including Vietnam-era veterans), persons with disabilities, or lesbian, gay, bisexual, or transgender persons. Such provisions shall be drafted in consultation with the Office of the Comptroller, the Office of Diversity and Equal Opportunity (“ODEO”), and the Operational Services Division, which shall develop and implement uniform language to be incorporated into all Executive Branch contracts. The provisions shall be enforced through the contracting agency, the Operational Services Division, and/or the Massachusetts Commission Against Discrimination (“MCAD”). Any breach shall be regarded as a material breach of the contract that may subject the contractor to sanctions up to and including termination of the contract.

**Section 6**. All state agencies shall exclude from any forms requesting information any item or inquiry expressing or soliciting specifications as to race, color, creed, religion, national origin, ethnicity, gender, age, sexual orientation, gender identity or expression, genetics, pregnancy or pregnancy-related condition, or disability, unless the item or inquiry is expressly required by statute or is deemed by the MCAD, the Massachusetts Office on Disability, the Human Resources Division, or the ODEO to be a bona fide qualification or otherwise required in good faith for a proper purpose. State agencies shall protect the security and confidentiality of any such personal information in their possession.

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

* Develop strategic goals for diversity and inclusion for the Executive Branch, aligned with the administration’s overall diversity vision;
* Oversee compliance with applicable state and federal non-discrimination laws;
* Ensure a strategic approach to acquiring and developing a diverse workforce that meets the needs of the diverse constituents of the Commonwealth through collaboration with key stakeholders;
* Ensure that diversity is reflected in all levels of state government;
* Establish guidelines for agency affirmative action and diversity plans (“plans”);
* Review all such plans and either approve, return for amendment, or reject them;
* Establish periodic reporting requirements for agencies concerning the implementation of their plans and all actions taken to ensure compliance with this Executive Order and applicable state and federal laws;
* Provide assistance to agencies in achieving compliance with their plans and with applicable state and federal laws;
* Monitor and assess the status of agency compliance and receive such information deemed appropriate for purposes of monitoring compliance;
* Investigate instances of non-compliance with plan submission and reporting requirements and, where appropriate, determine and impose remedial courses of action, including the suspension of a non-compliant agency’s authority to post a new position or the imposition of a freeze on all personnel requisitions and appointment forms submitted by any non-compliant agency to the Chief Human Resources Officer;
* Oversee and resolve appeals of denied employee reasonable accommodation requests; and
* Manage Secretariat Diversity Directors to ensure impactful plans are being executed to foster an engaged and diverse workforce.

**Section 8**. The CDO shall provide support and guidance to each Secretary and agency head in the appointment of skilled and qualified Diversity Directors and Diversity Officers. Each Secretariat shall appoint a Diversity Director who shall have a direct reporting relationship to the Secretary and to the CDO. Several Diversity Officers shall be appointed by each Secretary to assist each Diversity Director in executing the duties under this Executive Order. Each Diversity Officer shall report to their agency head and provide civil rights, equal opportunity, affirmative action, and diversity and inclusion services and shall coordinate these services through their respective Secretariats and agencies in compliance with the requirements of this Executive Order and applicable state and federal laws. The responsibilities of the Diversity Directors and Diversity Officers shall include, but not be limited to:

* Providing strategic and expert leadership on civil rights, affirmative action, and diversity and inclusion matters;
* Monitoring compliance with applicable state and federal laws at Secretariat and agency levels;
* Providing effective leadership in the development, implementation, and monitoring of plans for their Secretariat or agency;
* Preparing periodic reports which identify accomplishments and detail progress towards affirmative action and diversity goals;
* Collaborating with the Investigations Center of Expertise on discrimination complaints, as established in Section 11, below;
* Managing relationships with key stakeholders to ensure the principles of equal opportunity, affirmative action, and diversity and inclusion are demonstrated in every facet of employment, with a keen focus on hiring and promotions;
* Collaborating with Secretaries, agency heads, Executive Directors, Chiefs of Staff, Chief Financial Officers, Secretariat Human Resources Officers, and Human Resources Business Partners on the allocation of resources to carry out the mandates of this Executive Order; and
* Coordinating and overseeing the reasonable accommodations process.

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

**Section 10**. Pursuant to guidelines established by ODEO and MOD, all agency heads, managers, supervisors, and employees shall attend mandatory diversity training within six months of hire.

**Section 11**. There shall be established within the Human Resources Division of the Executive Office for Administration and Finance an Investigations Center of Expertise, which shall comprise a centralized investigations unit and corresponding investigations process for employees of the Commonwealth who allege violations of the Commonwealth’s policies prohibiting discrimination.

**Section 12.** No person shall be retaliated against for filing a complaint or claim related to an allegation of discrimination or for participating in an investigation or any other proceeding related to such complaint or claim.

**Section 13**. ODEO and MOD shall promulgate guidelines establishing a complaint resolution process for reasonable accommodation requests. In instances where the applicable process does not resolve the complaint to the satisfaction of the complainant, the complainant may file a complaint with the MCAD.

**Section 14**. In performing their responsibilities under this Order, ODEO, MOD, the MCAD, and the Human Resources Division shall have the full cooperation of all state agencies, including compliance with all requests for information.

**Section 15**. ODEO shall collaborate with the Governor’s Office of Access and Opportunity, as established in Executive Order 559, on projects that are mutually beneficial to supporting the Governor’s vision on diversity and inclusion.

**Section 16**. Nothing in this Executive Order shall be construed to preclude or otherwise limit the continuation or implementation of any lawful affirmative action programs or other programs that support the objectives of this Executive Order.

**Section 17**. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.

Given at the Executive Chamber in Boston this 23rd day of October in the year of our Lord two thousand twenty and of the Independence of the United States of America two hundred forty-four.

### Appendix 6: Guidelines for Implementing EO 592

***Guidelines for Implementing Executive Order 592***

***Advancing Workforce Diversity, Inclusion, Equal Opportunity, Non-Discrimination, and Affirmative Action***

***Office of Diversity and Equal Opportunity
100 Cambridge Street, Suite 600
Boston, MA 02114
(617) 727-7441***

***Charles D. Baker, Governor
Karyn Polito, Lt. Governor
Sandra E. Borders, Chief Diversity Officer***

***Issued by: HRD’s Office of Diversity and Equal Opportunity in collaboration with the Massachusetts Office on Disability***

***Revised: 2/11/2022***

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#### **PREFACE**

These guidelines are developed to ensure compliance with the Commonwealth’s Policy under Executive Order 592, Advancing Workforce Diversity, Inclusion, Equal Opportunity, Non-discrimination, and Affirmative Action.

Diversity and Inclusion are fundamental tenants of the Commonwealth. The aim is to create and sustain a diverse and inclusive workforce that reflects the populations we serve. Collectively, we take very seriously the commitment to integrate women, minorities (hereinafter professionals of color), persons with disabilities, and veterans into all levels of the workforce.

In the spirit of Executive Order 592, executive branch agencies are mandated to embrace the Commonwealth’s policies on Advancing Workforce Diversity, Inclusion, Equal Opportunity, Non-discrimination, and Affirmative Action. Implementing Executive Order 592 guidelines provides an opportunity to break barriers, positively impact engagement and ignite cultural change.

Please use these guidelines to further your understanding of the intent and proper implementation of Executive Order 592.

#### **SECTION 1: SCOPE**

“This Executive Order shall apply to all state agencies in the Executive Branch. As used in this Order, “state agencies” shall include all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established. As used in this Order, “discrimination” shall be defined as:

(1) Conduct in violation of state or federal non-discrimination laws;

(2) Unfair treatment because of an individual’s membership in a protected class; and

(3) Unfavorable treatment of an individual as compared to others similarly situated with respect to the terms, conditions, or privileges of employment because the individual is a member of a class protected by law. Discrimination may involve, but is not limited to:

1. Harassment, by creating, or allowing to exist, an environment hostile to an individual’s membership in a protected class;
2. Failing to provide a reasonable accommodation to an individual’s disability; or
3. Pursuing a practice or policy, which, while it appears neutral on its face, has a disproportionate and unfavorable impact on individuals who are members of a protected class”.

#### **SECTION 2: NON-DISCRIMINATION**

“This Executive Order is intended to implement, coordinate, and monitor the Commonwealth’s policies around non-discrimination, diversity, and equal opportunity in creating a diverse and inclusive workplace. These guidelines supplement and parallel Federal and Massachusetts Laws, including, but not limited to the Equal Pay Act of 1963; Title VI and Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Equal Employment Opportunity Act of 1972; the Civil Rights Act of 1992; Section 504 of the Rehabilitation Act of 1973; Vietnam-era Veterans Readjustment Act of 1974; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the ADA Amendments Act of 2008; Genetic Information Nondiscrimination Act of 2008; Public Accommodations Act of 2016; Pregnant Workers Fairness Act of 2018; and Massachusetts Equal Pay Act of 2018 and Massachusetts General Laws Chapter 151B and articles CVI and CXIV of amendments to the Massachusetts Constitution, and is designed to protect individual employment rights under these various laws”.

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

“In addition, no person shall be retaliated against for stating, filing a complaint or claim related to an allegation of discrimination or for participating in an investigation or any other proceeding related to such complaint or claim.”

#### **SECTION 3: AFFIRMATIVE ACTION PLAN AND DIVERSITY PLAN**

“All state agencies shall develop and implement affirmative action and diversity plans to identify and eliminate barriers in the workplace which are discriminatory in intent or effect. The plans shall set forth specific goals and timetables for the achievement of these goals and shall comply with all applicable state and federal laws. The plans will be updated every two years.

##### **3.1 Plans**

**(A) *Affirmative Action plans*** shall be developed and include, but not be limited to the following:

(1) Introduction and Policy Statement;

(2) Designation of Affirmative Action and Equal Opportunity Designations and Responsibilities;

(3) Organizational Profile;

(4) Identification of Problem areas;

(5) Action-Oriented Programs;

(6) Internal Audit and Reporting Systems; and

(7) Dissemination and Communication.

All Executive Branch agencies must follow the Model Affirmative Action Plan provided by the Office of Diversity and Equal Opportunity. Each time Affirmative Action plans are updated the Office of Diversity and Equal Opportunity will use the Model Affirmative Action Plan as the standard to evaluate all Executive Branch agency plans.

**(B)** ***Diversity plans*** must include, but not be limited to, an agency vision, agency mission statement, and diversity and inclusion goals with written strategy and measures. Each time diversity plans are to be updated, the Office of Diversity and Equal Opportunity will provide a model to be followed by all Executive Branch agencies.

##### **3.2 Timeframes**

Affirmative action and diversity plans shall be written, at a minimum, every two years. In the years that new plans are not written, secretariats and agencies may provide addendums for any changes to their current plans.

The Secretariats and Agencies shall report on their progress towards affirmative action benchmark goals quarterly. Quarterly Reports shall be compiled using data from the HR Analytics/Comindware tools. Reports shall be submitted promptly according to the Office of Diversity and Equal Opportunity calendar.

The secretariats and agencies shall annually submit progress updates on their Affirmative Action and Diversity Plans. These Progress Reports should be submitted sixty days after the close of the fiscal year or August 30th.

#### **SECTION 4: POLICIES, PROGRAMS, AND PRACTICES**

4.1 Non-discrimination**:** In keeping with the spirit of this Executive Order, and all applicable state and federal laws, no state agency may base employment decisions on or take actions that unlawfully discriminate based on race, color, age, gender, gender identity or expression, ethnicity, sexual orientation, religion, creed, ancestry, national origin, disability, veteran status (including Vietnam Era Veterans), genetics, pregnancy or pregnancy-related condition, or background. When planning programs, activities, and providing services (whether licensed, chartered, funded, regulated, or contracted for) by state agencies, they shall comply with our policy of non-discrimination.

4.2 Non-Compliance**:** Whenever the Chief Diversity Officer (CDO) determines, after investigation, that any party either partly or wholly responsible for the implementation of an affirmative action plan is in non-compliance, the CDO, where appropriate, shall assume sign‑off powers over all personnel actions and requisitions until there is satisfactory compliance. Non-compliance shall subject violators to hiring freezes on personnel requisitions until they become compliant.

4.3 Accountability***:*** Accountability and shared responsibility for achieving diversity and inclusion goals at all levels of the Executive Branch is a focal point of EO 592. Understanding that we all have a role in ensuring steady and sustainable progress for diversity and inclusion efforts is key to advancing the shared goal. To that end, the Office of Diversity and Equal Opportunity issued an accountability policy to assist executive departments with compliance. Located in the addendum section is a copy of the policy. Under the accountability policy, these individuals have the following roles:

**Diversity Director/Diversity Officer:** Shall be responsible for submitting Secretariat or Agency Affirmative Action and Diversity Plans. They are responsible for reporting on their progress towards achieving stated Affirmative Action goals every quarter via HR Analytics Quarterly Report. Reports shall be submitted promptly accordingly to the calendar and timeframe provided by the Office of Diversity and Equal Opportunity.

**Agency Heads**: Shall be held accountable for reviewing and approving their Affirmative Action and Diversity Plans on time. Late submissions will be deemed non-compliant and will trigger consequences for non-compliance, including invoking hiring freezes on personnel requisitions until the Agency or Secretariat becomes compliant.

**ODEO:**The Office of Diversity and Equal Opportunity will continue to publish and circulate the calendar of due dates for submission of Affirmative Action and Diversity Plans, Progress Reports, and Quarterly Reports. ODEO will also continue to promptly apprise Diversity Directors/Diversity Officers of actions needed and when reports are outstanding. Pursuant to Executive Order 592, ODEO will institute an agency-wide hiring freeze for failing to submit an Affirmative Action or Diversity plan within two weeks of the due date.

In addition, the Office of Diversity and Equal Opportunity will closely monitor and track the timely submission of Quarterly Reports, Progress Reports, and Affirmative Action and Diversity Plans. They will take swift and appropriate action when it is determined that an agency is not compliant.

Several indicators determine if an Agency or Secretariat will receive an audit. These factors include but are not limited to:

* Late submissions of Quarterly Reports, Affirmative Action Plans, and Diversity Plans
* A large volume of internal workplace discrimination complaints, lawsuits, and investigations
* Lack of Diversity Officers/Director retention
* Ongoing documented patterns of non-compliance

#### **SECTION 5: CONTRACTS**

“Every state or state-assisted contract for public buildings and public works, or goods or services shall contain an article prohibiting discriminatory employment practices by contractors, subcontractors and suppliers of goods or services based on race, color, age, gender, gender identity or expression, ethnicity, sexual orientation, religion, creed, ancestry, national origin, disability, veteran status (including Vietnam Era Veterans), or background."

Contractors and any subcontractors shall not engage in discriminatory employment practices. Contractors will certify compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices. Contractors will also commit to purchase supplies and services from certified minority, women, veteran, service-disabled veteran, LGBT or disability-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons; and Contractors will commit to comply with any Applicable Department contractual requirements pertaining to the employment of persons with disabilities pursuant to [MGL c. 7 § 61(s)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7/Section61). These provisions shall be enforced through the contracting Department, Operational Service Divison (OSD), Supplier Diversity Office (SDO), and/or the Massachusetts Commission Against Discrimination (MCAD). Any breach of these requirements shall be regarded as a material breach of a contract and may subject the contractor to appropriate sanctions. The OSD, in consultation with MCAD and the SDO, will provide specific guidelines for drafting and administering contracts on their respective websites.

#### **SECTION 6: STATE FORMS**

“All state agencies shall exclude from any forms requesting information any item or inquiry expressing or soliciting specifications as to race, color, creed, religion, national origin, ethnicity, gender, gender identity or expression, age, sexual orientation, genetics, pregnancy or pregnancy-related condition, or disability, unless the item or inquiry is expressly required by statute or is deemed by the Massachusetts Commission against Discrimination, the Massachusetts Office on Disability, the Human Resources Division, or the Office of Diversity and Equal Opportunity to be a bona fide qualification or otherwise required in good faith for a proper purpose as outlined by Federal and State Affirmative Action regulations.”

Any agency desiring to solicit demographic information, as noted above, should contact HRD’s Office of Diversity and Equal Opportunity and provide a draft of the document to be modified for review. HRD’s Office of Diversity and Equal Opportunity will coordinate a review process with partners referenced above and provide a written response to the request within five business days.

#### **SECTION 7: OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY**

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

* Develop strategic goals for diversity and Inclusion for the Executive Branch, aligned with the administration’s overall diversity vision;
* Oversee compliance with applicable state and federal non-discrimination laws;
* Ensure a strategic approach to acquiring and developing a diverse workforce that meets the needs of the diverse constituents of the Commonwealth through collaboration with key stakeholders;
* Ensure that diversity is reflected in all levels of state government;
* Establish guidelines for agency affirmative action and diversity plans (“plans”);
* Review all such plans and either approve, return for amendment, or reject them;
* Establish periodic reporting requirements for agencies concerning the implementation of their plans and all actions taken to ensure compliance with this Executive Order and applicable state and federal laws;
* Provide assistance to agencies in achieving compliance with their plans and with applicable state and federal laws;
* Monitor and assess the status of agency compliance and receive such information deemed appropriate for purposes of monitoring compliance;
* Investigate instances of non-compliance with plan submission and reporting requirements and, where appropriate, determine and impose remedial courses of action, including the suspension of a non-compliant agency’s authority to post a new position or the imposition of a freeze on all personnel requisitions and appointment forms submitted by any non-compliant agency to the Chief Human Resources Officer;
* Manage and resolve appeals of denied employee reasonable accommodation requests; and
* Manage Secretariat Diversity Directors to ensure impactful plans are being executed to foster an engaged and diverse workforce

**Responsibility:**  The Office of Diversity and Equal Opportunity shall have the overall responsibility to monitor and audit in a systematic manner all Affirmative Action plans for employment for the Commonwealth to ensure said plans comply with Executive Order 592. The Office of Diversity and Equal Opportunity will utilize an innovative dashboard software, which offers task management, workflow automation, and networking tools to assist ODEO with the monitoring of the compliance review process and other mandated report submissions.

ODEO, in cooperation with the Massachusetts Office on Disability (MOD), shall also provide the coordination of technical assistance by and for state agencies and their appointing authorities for the affirmative action employment obligations under Executive Order 592.

Technical assistance as it pertains to the implementation of Section 9 shall be provided by ODEO. Diversity Directors and Diversity Officers also serving in the ADA Coordinators role will receive ADA technical assistance and training through the Massachusetts Office on Disability.

#### **SECTION 8: ROLES (SECRETARIAT DIVERSITY DIRECTOR, AGENCY DIVERSITY OFFICER)**

 Each Secretariat shall appoint a Diversity Director. A highly placed, full-time, managerial, or confidential employee, who **shall have a direct reporting relationship to their Secretary.** Each Diversity Director shall have a dotted line reporting relationship to the Chief Diversity Officer (CDO). The Chief Diversity Officer shall provide input on the performance of the Diversity Director with regard to the development and execution of the Secretariat’s Affirmative Action and Diversity Plans. Multiple Diversity Officers shall be appointed by each Secretary to assist each Diversity Director in executing the duties under this Executive Order. Each Diversity Officer **shall report to their agency head** and provide civil rights, equal opportunity, affirmative action, and diversity and inclusion services and shall coordinate these services through their respective Secretariats and Agencies in compliance with the requirements of this Executive Order and applicable state and federal laws.

The responsibilities of the Diversity Directors and Diversity Officers shall include, but not be limited to:

* Providing strategic and expert leadership on civil rights, affirmative action, and diversity and inclusion matters;
* Monitoring compliance with applicable state and federal laws at Secretariat and agency levels;
* Providing effective leadership in the development, implementation, and monitoring of plans for their Secretariat or Agency;
* Preparing periodic reports which identify accomplishments and detail progress towards affirmative action and diversity goals;
* Collaborating with the Investigations Center of Expertise on discrimination complaints, as established in Section 11, below;
* Managing relationships with key stakeholders to ensure the principles of equal opportunity, affirmative action, and diversity and Inclusion are demonstrated in every facet of employment, with a keen focus on hiring and promotions;
* Collaborating with Secretaries, Agency Heads, Executive Directors, Chiefs of Staff, Chief Financial Officers, Secretariat Human Resources Officers, and Human Resources Business Partners on the allocation of resources to carry out the mandates of this Executive Order;
* In cases where the Diversity Director/Officer is also appointed as the ADA Coordinator, coordinate and oversee the reasonable accommodations process.

Moreover, the Diversity Director and Diversity Officer’s role has two essential components: (1) Affirmative Action/Equal Opportunity compliance, and (2) Diversity and Inclusion planning.

##### **8.1 Affirmative Action /Equal Opportunity Compliance**

* Managing and overseeing internal compliance with the Affirmative Action/Equal Opportunity programs for the Secretariat, including collaborating with HR to prepare Reductions in Force plans.
* Serving as an active partner in the hiring process, such as reviewing the job posting language before placement on the MassCareers. Checking the applicant pool for diversity and making timely recommendations of diverse applicants to the recruitment officer and/or the hiring manager for consideration.
* Collaborate with the Office of Diversity and Equal Opportunity on the referral of candidates from the Affinity Leadership Consortium (ALC) for open requisitions.
* Provide strategic and expert leadership on recruitment, hire, pay-equity, and retention.
* Monitoring the hiring process at various stages to ensure consistency and transparency. Collaborating with Human Resources to develop a standard interview template and evaluation protocols. Participating in interview panels and signing off on hiring appointments.
* As outlined in the Accountability policy, implement measures for non-compliance of Affirmative Action / Diversity standards after each reporting period.
* Prepare quarterly reports and track the Secretary /Agency's progress towards achieving established Affirmative Action goals.
* Partnering as a resource with the Investigations COE on In Scope Investigations.
* Conducting Out of Scope Investigations and reporting outcomes back to the Investigations COE.
* Collaborating with Agency Head, CFO, and HR Directors on workforce planning and the allocation of resources to implement the mandates of this Executive Order.

##### **8.2 Diversity and Inclusion Planning**

* Drafting, implementing, and monitoring policies and procedures that support the administration’s diversity and Inclusion vision and programs.
* Developing programs that encourage recruiting and retaining highly skilled and diverse talent.
* Promoting a workplace culture that values, respects, and supports diversity, equity, and Inclusion.
* Implementing accountability systems to support diversity throughout the talent life cycle.
* Modeling a commitment to diverse and inclusive workplace culture.
* Encouraging a culture of continuous learning through any of the following:
* Legal updates (i.e., EEOC, Executive Order or State/Federal Law changes as they pertain to AA/Diversity)
* Affirmative Action updates (i.e., OFCCP changes as they pertain to AA planning)
* Monthly newsletters
* Seminars/Workshops
* Heritage Celebrations and Diversity events
* Diversity Training
* Establish a diversity council and/or ERG’s
* Panel Presentations
* Book Clubs
* Listening Sessions

#### **SECTION 9: REASONABLE ACCOMMODATION, PRE-EMPLOYMENT & SELF-IDENTIFICATION**

Employing individuals with disabilities is a vital and critical component of the overall strategy for diversifying and sustaining an inclusive workforce. At times, there is a need to provide reasonable accommodations for a person with a disability for them to perform the essential functions of their job.

These guidelines supplement and parallel federal and state laws designed to protect individuals with disabilities from any form of discrimination, including but not limited to the Federal Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act, as amended; Massachusetts General Laws, Chapter 151B; and Amendment Article 114 of Massachusetts’ Constitution. These guidelines apply to each Executive Office, Agency, department, subdivision, board, or commission within the Executive Branch of state government that recruits, hires, trains, promotes, transfers, lays off, or terminates applicants, employees, consultants, or consultant’s interns. They further apply to any Authority or recipient of state funds, which voluntarily adopts a policy pursuant to Executive Order 592.

Each Secretariat and Agency shall appoint one or more ADA/Section 504 Coordinators.  The Massachusetts Office on Disability (MOD), in its role as the ADA/Section 504 Coordinator for the state, shall review and approve the appointment of the ADA/Section 504 Coordinators.  In addition, MOD shall advise and guide the Agency Head and Agency staff regarding compliance with the requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.  Any appointed ADA /504 Coordinator shall undergo appropriate training with MOD before commencing their roles**.**

##### 9.1 Requirements for Reasonable Accommodation in Employment

**(1)**  Each Agency is required to make a reasonable accommodation to the known physical and/or mental limitations of an otherwise qualified applicant or employee with a disability in order to assist the employee with their ability to perform the essential functions of their position unless the agency demonstrates that the accommodation would impose an undue hardship, as defined in subsection 3 below.

**(2)** A reasonable accommodation is an adjustment or alteration that enables a person with a disability to apply for jobs, to gain access to the work environment, to perform job duties, or to enjoy the benefits and privileges of employment. There are many types of accommodations, which include, but are not limited to:

* + - making job facilities accessible to and equally usable by a person with a disability;
		- modifying work schedules;
		- modifying when and how an essential job function is performed;
		- obtaining, maintaining, or modifying adaptive job equipment or devices;
		- reassigning non-essential job functions;
		- modifying methods of supervision or evaluation;
		- modifying the manner in which tests, examinations, selection devices are administered;
		- permitting performance of job functions at alternative locations;
		- allowing time off for medical reasons;
		- reassignment or transfer to a vacant position;
		- allowing leaves of absence;
		- providing readers, interpreters for the deaf, drivers, or other aides.

**(3)** A reasonable accommodation shall not be denied any qualified person with a disability unless:

**(A)** Undue financial burdens: Agencies should keep in mind that the assets of the Commonwealth as a whole may be considered when determining whether there is a financial burden. A denial of an accommodation based upon financial burden is rare, and ODEO should be consulted before an agency claims this exception**.**

**(B)** Undue Administrative burdens: An Accommodation is so complex or inappropriate for the setting in which it would be performed that it is not practical; or

**(C)** Fundamental Alteration: Cases where the accommodation would fundamentally alter the nature of the job, program, activity, or service where the employee is supposed to work.

**(4)** The requirement to provide areasonable accommodation applies to all employment decisions by the employer, including but not limited to recruitment, hiring, training,promotion, reassignment, lay-off, and termination.

**(5)** Agencies are required to maintain an open dialogue between applicants, employees, and employers about the need for a reasonable accommodation. The goal is to accommodate the needs of qualified individuals with disabilities while satisfying the legitimate business interests of the Agency.

**(6)** Agencies shall educate their workforce with respect to the policies and procedures related to the availability of reasonable accommodations.

**(7)** The disclosure of information related to an applicant or employee’s need for an accommodation shall be limited to personnel with an operational need to know.

**(8)** An agency may not deny the reasonable accommodation request of aqualifiedapplicant or employee with a disability:

**(A)** Because the employee or applicant has not, and/or currently declines to, self-identify themselves as a person with a disability for purposes of affirmative action, or

**(B)** Because they have not previously requested an accommodation.

##### **9.2 Process for Requesting Reasonable Accommodation**

###### ***(1) General considerations***

**(A)** An applicant or employee with a disability may request a reasonable accommodation at any time.

**(B)** An applicant or employeeneed not have self‑identified for the purpose of affirmative action to request or receive a reasonable accommodation.

**(C)** In considering a request for reasonable accommodation pursuant to this section, an agency may request the applicant or employee provide medical verification that a disability-based limitation exists, and that the disability necessitates the reasonable accommodation requested. The inquiry must be job-related and consistent with business necessity.

However, an employer must not ask for medical documentation when either:

i. The disability-related limitation is obvious to a reasonable person interacting with the individual and

ii. It is obvious that the limitation requires some form of accommodation.

**(D)** Agencies must engage in an interactive process to reach a mutually agreeable accommodation. Toward this end, if the initial requested accommodation is determined to be unreasonable, the Agency and/or the requestor shall propose alternative accommodations for consideration and shall encourage and consider alternative accommodations proposed by either party.

If consultation with the individual in need of the accommodation does not result in a satisfactory potential appropriate accommodation. As part of this process, the employer may secure technical assistance to help determine how to accommodate the particular individual in the specific situation. An employer’s decision whether to seek technical assistance will not, by itself, excuse an employer from its obligation to make a reasonable accommodation.

**(E)** If a request for reasonable accommodation is to be wholly or partially denied, the requestor shall be notified of that decision in writing. The written notice shall contain at least the following information:

**(1)** A statement of the particular accommodation being denied;

**(2)** The factual reason(s) for the denial;

**(3)** A citation to the guidelines;

**(4)** An explanation of the requestor's right to appeal; and

**(5)** A referral to the Massachusetts Office on Disability and the reasonable accommodation Appeals Fact Sheet

**(F)** Requests for Reasonable Accommodation should be handled expeditiously within the timelines established in Section 9(2). It is recognized that, in some complex cases, a fair adjudication may take longer. In such cases, the requestor should be kept apprised of the progress of the resolution of the request every thirty days.

**(G)** In the case of extenuating circumstances, such as interview deadlines, the decision on a reasonable accommodation request shall be made with sufficient promptness so that timelines established in Section 9(2) are not interfered with whenever possible. Deviation from this policy must be justified in writing.

###### ***(2) Initial Request for Reasonable Accommodation at the Agency Level***

The applicant or employee may begin the process of requesting a reasonable accommodation through a verbal request to their immediate supervisor or to the Agency ADA/504 Coordinator.

* 1. The supervisor shall immediately refer the request to the Agency ADA/504 Coordinator. Following notification, the ADA/504 coordinator handles the request.
	2. The Agency ADA/504 Coordinator may consult with appropriate individuals in developing a response to the request for reasonable accommodation. The ADA Coordinator shall memorialize all requests in writing using **Form 592A**.
	3. The Agency ADA/504 Coordinator shall respond to the request for reasonable accommodation in writing **within twenty working** days of the request. If the reasonable accommodation request is granted, the Agency ADA/504 Coordinator shall use Form **592B**located in the addendum of these guidelines to return a written response. Form **592B**requires a rationale for granting the accommodation.

The Agency ADA/504 Coordinator shall make one copy of Form **592B.**The original shall be promptly delivered to the requestor. The Agency ADA/504 Coordinator shall maintain the copy in a confidential file that is separate from the employee’s personnel file. The Agency ADA/504 Coordinator shall inform only those personnel within the Agency who need to know of an accommodation. That personnel shall be given only as much information as needed to perform their duties.

* 1. **If** the reasonable accommodation request has been denied, the Agency ADA/504 Coordinator shall use Form **592C**located in the addendum of these guidelines to return a written response. Form **592C**requires a rationale for denying the accommodation.

The Agency ADA/504 Coordinator shall make ***two copies*** of this form. The original shall be promptly delivered to the requestor. The Agency ADA/504 Coordinator shall maintain one copy in a confidential file that is separate from the employee’s personnel file.

***One copy shall promptly be submitted to the Office of Diversity and Equal Opportunity via the ODEO Restricted RA Appeals mailbox at hrd-odeo-ra-appeals@mass.gov***.

* 1. At the time the denial is issued, the requestor shall simultaneously be informed in writing of their right to appeal. The requestor must be informed explicitly of the available appeal procedures. The procedures include the following:

**(1)** The Secretariat Appeal of Denial of Reasonable Accommodation Request process described in subsection (3), below; or

**(2)** The Office of Diversity and Equal Opportunity Appeal Process as described in subsection (4), below.

* 1. This notice of appeal rights shall also state the individual’s right to consult with and to be represented by an advocate or attorney of their choice. The notice shall also state that the individual can request information about the reasonable accommodation process from the Massachusetts Office on Disability (MOD). The notice shall also advise the individual of their right to file a charge of discrimination with the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission.

###### ***(3) Secretariat Appeal of Denial of Reasonable Accommodation Request***

**(A)** An individual denied reasonable accommodation by an agency may appeal that denial to the Secretariat ADA/504 Coordinator. This appeal request shall be in writing, using **Form 592D**, located in these guidelines' addendum within **ten working** days of the denial.

**(B)** The Secretariat ADA/504 Coordinator shall immediately request all necessary paperwork from Agency ADA/504 Coordinator.

**(C)** The Secretariat ADA/504 Coordinator may consult with appropriate individuals in developing a response to the request for reasonable accommodation.

**(D)** The Secretariat ADA/504 Coordinator shall respond, in writing, to the requestor’s appeal within **twenty working days** of receipt of the appeal.

**(E If** the reasonable accommodation request is granted, the Secretariat ADA/504 Coordinator shall immediately inform the Agency ADA/504 Coordinator prior to using **Form 592E**located in the addendum of these guidelines to return a written response for granting the accommodation.  ***Suppose the Secretariat ADA/504 Coordinator and the Agency ADA/504 Coordinator disagree on granting the reasonable accommodation. In that case, the final decision will rest with the Secretariat ADA/504 Coordinator.***

The Secretariat ADA/504 Coordinator shall make two copies. The original shall be promptly delivered to the requestor. One copy shall be provided to the Agency ADA/504 Coordinator, who shall maintain it in a confidential file. The Secretariat ADA/504 Coordinator shall maintain one copy in a confidential file that is separate from the employee’s personnel file. The Secretariat ADA/504 Coordinator shall inform only those Agency personnel who need to know of the accommodation. Personnel with a need to know of an accommodation shall be given only as much information as they need to perform their duties.

* 1. **If** the reasonable accommodation request continues to be denied, upon appeal, the Secretariat ADA/504 Coordinator shall use **Form 592F**located in the addendum of these guidelines to return a written response.  **Form 592F**requires a rationale for denying the accommodation.

The Secretariat ADA/504 Coordinator shall make three copies. The original shall be promptly delivered to the requestor. One copy shall be provided to the Agency ADA/504 Coordinator, who shall maintain it in a confidential file. The Secretariat ADA/504 Coordinator shall maintain one copy in a confidential file that is separate from the employee’s personnel file.  ***One copy shall be promptly delivered to the Office of Diversity and Equal Opportunity via the ODEO restricted RA Appeals Mailbox at hrd-odeo-ra-appeals@mass.gov.***  The Secretariat ADA/504 Coordinator shall inform only those personnel within the Agency who have a need to know of the denial of the reasonable accommodation. Personnel with a need to know of an accommodation shall be given only as much information as they need to perform their duties.

* 1. The requestor shall be informed in writing of their right to appeal the denial of reasonable accommodation either through the Office of Diversity and Equal Opportunity’s Appeal Process, as discussed in subsection (4) below or through the Massachusetts Commission Against Discrimination Complaints Process, as discussed in 804 CMR §1.0, et seq. This notice of appeal rights shall also state the individual’s right to consult with and to be represented by an advocate or attorney of their choice.

###### ***(4) Appeal to ODEO of Denial of Reasonable Accommodation Request***

**(A)** If the Secretariat denies an individual reasonable accommodation, they may appeal that denial to the Chief Diversity Officer in the Office of Diversity and Equal Opportunity.  This appeal request shall be in writing, using **Form 592G**, located in these guidelines' addendum, within ten working days of the denial.

**(B)** The Chief Diversity Officer shall immediately request all necessary paperwork from the Agency and Secretariat ADA/504 Coordinator.

**(C)** The Chief Diversity Officer may consult with appropriate individuals in developing a response to the request of reasonable accommodation.

**(D)** The Chief Diversity Officer shall respond, in writing, to the requestor’s appeal of the denial of their request for reasonable accommodation by the Secretariat ADA/504 Coordinator within **twenty working days** from receipt of the appeal or within a terminal period established by the Director.

**(E) If** the reasonable accommodation request has been granted, the Chief Diversity Officer shall immediately inform the Secretariat ADA/504 Coordinator of the decision prior to using **Form 592H** to return a written response to the employee, which describes the accommodation and the basis for its approval. If the reasonable accommodation request has been denied, the Chief Diversity Officer shall use Form **592I**to return a written response to the employee, which describes the basis for denying the accommodation.

**(F)** Whether the appeal is granted or denied, the Chief Diversity Officer shall make three copies of the letter to the requestor. The original shall be promptly delivered to the requestor. Copies shall be provided to the Agency ADA/504 Coordinator and to the Secretariat ADA/504 Coordinator, who shall maintain in confidential files that are separate from the employee’s personnel file. The Chief Diversity Officer shall inform only those personnel within the Agency and/or Secretariat who have a need to know of the granting or denial of the reasonable accommodation. Personnel with a need to know of an accommodation shall be given only as much information as they need to perform their duties.

**(G)** The requestor shall be informed in writing of their right to file a charge of discrimination with the Massachusetts Commission Against Discrimination, as discussed in 804 CMR**§** 1.0, et seq., or with the Equal Employment Opportunity Commission if they disagree with the decision rendered under subparagraph (F) above.

**(H)** In any case, where the Office of Diversity and Equal Opportunity determines that an agency has failed to comply with the reasonable accommodation standards or procedures contained in this document, the Chief Diversity Officer shall also report the violation to the Massachusetts Office on Disability (MOD) by forwarding a copy of the decision **Form 592H**, required by subparagraph (E) above, to the Director of the Massachusetts Office on Disability.

##### **9.3 Pre‑Employment Inquiry**

* + 1. Except as provided in paragraphs (2) and (3) of this section, an agency may not conduct a pre‑employment medical examination or make pre‑employment inquiry of an applicant as to whether the applicant is a person with a disability or as to the nature or severity of a disability. However, an agency may make a pre‑employment inquiry into an applicant's ability to perform job‑related functions.

**(2)** When an agency is taking remedial action to correct the effects of past discrimination, or when an agency is taking voluntary action to overcome the effects of conditions that have resulted in limited participation in its program or activity, or taking affirmative action pursuant to Executive Order 592 and these guidelines, an agency may invite applicants for employment to self‑identify as a person with a disability, provided that:

**(A)** The Agency states clearly on any written questionnaire used for this purpose or makes clear orally if no questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary affirmative action efforts and may not coerce a candidate to self-identify;

**(B)** Information obtained will be kept confidential as provided in paragraph (4) of this section, and that it will be used solely in accordance with this part and any applicable federal and state laws and regulations implementing Section 504 of the Rehabilitation Act (the Agency should expressly cite the pertinent regulations, e.g., 45 CFR Part 84); and

**(C)** Refusal to provide the information will not subject the applicant to any adverse treatment.

**(3)** Nothing in this section shall prohibit an agency from conditioning a bona fide offer of employment on the results of a medical examination conducted prior to the employee's effective date of employment; provided that:

**(A)** All employees entering that specific job classification are subjected to such an examination regardless of disability; and

**(B)** The results of such an examination are used only in accordance with this part and applicable Federal regulations implementing Section 504 of the Rehabilitation Act.

**(4)** Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained in a separate file at the ADA/504 Coordinator’s office on separate forms that shall be accorded the same confidentiality as medical records.

Except in the case of an emergency, the information contained in the individual’s file may be shared with others only after securing authorization from the individual, or where the Agency ADA/504 Coordinator determines that specific personnel within the Agency need to know of an accommodation. Personnel with a need to know of an accommodation shall be given only as much information as necessary to perform their duties. In the case of an emergency, first‑aid and safety personnel may be informed where appropriate if the condition might require emergency treatment. Federal officials investigating compliance with the Rehabilitation Act and duly authorized state officials shall be provided relevant information upon request.

##### **9.4 Self‑Identification**

1. Any employee or applicant with a disability may voluntarily self‑identify for affirmative action purposes at the local agency level at any time by signing the Statement of Self‑identification form and presenting it to the ADA/504 Coordinator.

For *employees*, the ADA/504 Coordinator shall acknowledge receipt of the self-identification form, maintain it in a confidential file that is separate from the employee’s personnel file, and update the HR/CMS Disability Panels to reflect the self-identification date. For *applicants*, the ADA/504 Coordinator shall acknowledge receipt of the self-identification form and shall maintain the form in a confidential file.

1. Any retaliation, discrimination, discharge, or other adverse treatment of an individual, because the individual has or has not self‑identified or requested to do so is prohibited.
2. The Agency shall assume the individual’s statements on their disability to be accurate pending verification as outlined in the verification section below.

###### 9.4.1 Verification of Disability for Self-Identification

As a general rule, agencies may not ask employees to verify their disability. Verification of disability by a competent medical authority or designated state agency (representative) will only be required when both of the following criteria are present:

**(A)** The individual’s status as a person with a disability is potentially relevant, as a beneficial factor, in connection with a pending employment decision, such as being hired or promoted or being spared a lay-off; and

**(B)** The individual’s status as a person with a disability is not obvious to a reasonable person interacting with the individual.

Where a verification request is made, an employee who has self-identified as a person with a disability may be asked to submit a Confidential Verification of Disability Form to the Agency ADA/504 Coordinator within thirty (30) days of the Agency’s ADA/504 Coordinator’s request. The use of this Confidential Verification of Disability Form is solely limited to the verification of the disability that forms the basis of the Self Identification. The Confidential Verification Form may not be used for any other purpose.

###### 9.4.2 Confirmation

1. Upon proper completion of the verification process as prescribed in the verification section, the Agency shall issue a *Confidential Confirmation of Disability*formon the Agency's letterhead to the individual.
2. The individual who voluntarily self‑identifies is required to provide verification and to receive confirmation of disability **only once** to establish their ***protected status*** for affirmative action purposes throughout the Executive Branch.
3. The original document shall be given to the individual with a disability, and the Agency of origin shall maintain a copy of the confirmation in a confidential file that is separate from the employee’s personnel file held by the Agency’s ADA/504 Coordinator.
4. Other agencies wishing to confirm the existence and content of a confirmation document from a source other than the individual shall request that information from the ADA/504 Coordinator of the Agency of origin that is responsible for maintaining confidential affirmative action files. Any such request requires the prior written authorization and consent of the individual with a disability.
5. If confirmation is denied, they shall be notified of the right to appeal the decision through the Office of Diversity and Equal Opportunity’s Resolution Process.

#### **SECTION 9A: REASONABLE ACCOMMODATION CAPITAL RESERVE ACCOUNT (RACRA)**

The Reasonable Accommodations Capital Reserve Account is a fund established to help agencies who need financial assistance meet reasonable employee accommodation requests. Access the Massachusetts Office on Disability’s website for more information on this fund.

#### **SECTION 10: MANDATORY DIVERSITY TRAINING**

Pursuant to Executive Order 592, all agencies within the Executive Branch shall ensure that all Agency Heads, Managers, Supervisors, and Employees attend mandatory diversity training. New employees must participate in mandatory diversity training within six months of hire.

Diversity training is required every two years and shall be conducted utilizing a blended approach of eLearning and instructor-led training. This means that each employee of the Commonwealth's executive departments must attend the basic mandatory diversity training classes and shorter refresher training classes every two years after that.

Diversity Directors should review their workforce to determine which Agency Heads, Managers, Supervisors, and Employees have been trained within the last two years, then develop a training plan to train all remaining workforce members. A training plan must be submitted to ODEO annually for those employees being trained over the next fiscal year.

#### **SECTION 11: Establishing of the Investigations Center of Expertise**

Established within the Human Resources Division of the Executive Office for Administration and Finance is the Investigations Center of Expertise (COE), which shall comprise a centralized investigations unit and corresponding investigations process for employees of the Commonwealth who allege violations of the Commonwealth’s policies prohibiting discrimination. The COE investigates complaints made by or against Executive Department employees related to: [Discrimination](https://www.mass.gov/executive-orders/no-526-order-regarding-non-discrimination-diversity-equal-opportunity-and), [Sexual Harassment](https://www.mass.gov/service-details/sexual-harassment-policy), [Domestic Violence/Sexual Assault/Stalking](https://www.mass.gov/executive-orders/no-491-establishing-a-policy-of-zero-tolerance-for-sexual-assault-and-domestic), [Workplace Violence](https://www.mass.gov/doc/workplace-violence-policy/download), and Retaliation related to one of the aforementioned policies or Executive Orders.

Individuals who believe they have been subjected to discrimination should contact the Investigations Center of Expertise (COE).

**Employees can report a complaint directly to the COE in any of the following ways:**

Online: [**Complaint Form**](https://massgov.service-now.com/hrd/?id=hrd_req_form&sys_id=67e959d4dbf5c81000701fe9689619d9)

Phone: 1-833-778-7270

Email: **HRDInvestigations@mass.gov**

When the COE receives a complaint, it will review the complaint and any information provided to determine if the complaint is in scope or out of scope.

**11.1 In scope**is defined as allegations that include violations of statewide policies: Sexual Harassment, Discrimination, Workplace Violence, Domestic Violence / Sexual Assault, and Retaliation policies.

Allegations will be investigated if the facts provided, taken as true, would violate one of the aforementioned policies.

**11.2 Out of scope**is defined as allegations that include possible violations of agency policy, violations of Mutual Respect (CBA), other investigations that are agency-specific, such as allegations of client/patient/inmate abuse or neglect (EHS, EPS), or privacy violations (DOR), and allegations involving non-employees or point of service contractors.

If the complaint is in scope, the Investigations COE will investigate the allegations and work closely with the Secretariat and/or Agency designated point of contact known as the “Human Resources Business Partner” (HRBP), which may be the Diversity Officer, throughout the process. The Investigations COE will also provide regular updates to the employees involved in the complaint throughout the process. Once the COE completes an investigation, it issues a report summarizing the findings of the investigation to the COE’s HRBP for the Secretariat or Agency. The HRBPs shall notify the Complainant and the Respondent of the outcome of the investigation (i.e., substantiated, or unsubstantiated), but shall not provide the full report or its contents. The HRBP and the COE will confer on any appropriate action to be taken as a result of the investigation. The Secretariat or Agency shall retain a copy of the investigation report in accordance with record retention guidelines.

If the COE determines the complaint is **out of scope**, the complaint will be provided to the Secretariat or Agency HRBP. The Secretariat or Agency shall review the complaint and take necessary action.

Nothing in this process outlined above shall be construed as precluding a person who chooses to use the process from filing a complaint or grievance with other appropriate agencies or authorities (i.e., Massachusetts Commission Against Discrimination (MCAD) or Equal Employment Opportunity Commission (EEOC).  No person shall be dissuaded or prevented from filing a complaint with the Massachusetts Commission Against Discrimination (MCAD) or the US Equal Employment Opportunity Commission (EEOC) because of an investigation or resolution process conducted by the COE.

##### **11.3 Process for Conducting Out-of-Scope Investigations**

When a complaint is referred to a Secretariat or Agency that involves a violation of the sexual harassment, discrimination, workplace violence, or the domestic violence, sexual assault, and stalking policy and because it involves a complainant or a respondent who is not a Commonwealth employee, the Agency shall conduct an intake interview and explain to the complainant the expected time frames. After the intake interview, the HRBP, Diversity Officer or designated point of contact shall develop a summary of the complaint with a statement.

The Secretariat or Agency will assign the complaint to the Agency’s HRBP, Diversity Director or Officer for further investigation. The HRBP, Diversity Director or Officer shall investigate the complaint in accordance with MCAD investigative standards and provide updates to the Investigations COE as required utilizing the guidance issued by the COE. The Secretariat or Agency shall notify the COE under the COE’s established procedure of the investigation findings. Once an investigation is complete, the Secretariat or Agency shall take the appropriate steps that it deems necessary to address the findings.

#### GLOSSARY OF TERMS

Each of the following terms shall have the assigned meaning for the purposes of implementing Executive Order 592:

**Accessibility:** Elimination of barriers, environmental, physical***,*** procedural, or emotional, which can prevent an individual with a disability from equal opportunity. Each Agency is responsible for implementing the program to eliminate all barriers within its particular environment.

**ADA/504 Coordinator:**The highly placed responsible individual designated by an agency head, to coordinate its efforts to comply with and carry out its responsibilities under the Americans with Disabilities Act. Including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that this part would prohibit. The requirement for designation of an employee responsible for coordinating efforts to carry out responsibilities under this part is derived from US Department of Justice Regulations found at 28 CFR §35.107. The requirement for designation of a particular employee helps ensure that individuals can easily find a responsible person familiar with the requirements of the Act, as well as this part, and who can communicate those requirements to other individuals in the Agency who may be unaware of their responsibilities.

**Advocate:** An individual who assists or represents the complainant during the Resolution Process. Any arrangement for an advocate is the responsibility of the complainant.

**Affirmative Action (AA):**A policy or program that seeks to redress past discrimination by increasing opportunities for under-represented groups.

For example, in the area of employment, affirmative action is accomplished by taking specific steps to identify, recruit, hire and/or develop for advancement persons who are identified as part of a specific protected class.

**Affirmative Action Right:**All rights assured by this Order and related affirmative action plans; such rights cover allegations of adverse impact, discrimination, or harassment based on race, gender, disability, or status as Vietnam Era Veterans.

**Agency:** Any Agency of the Executive Branch of state government or other Agency within the Commonwealth, which is obligated under Executive Order 592, or which elects to voluntarily comply with Executive Order 592, including but not limited to all executive offices, secretariats, agencies, departments, divisions, subdivisions, boards, commissions, and authorities.

**Agency Head:** The person who has primary responsibility for an administrative sub-division of the Commonwealth.

**Americans with Disabilities Act (ADA) 42 USC §12,101 et seq.:** The ADA is a federal civil rights law designed to prevent discrimination and enable individuals with disabilities to participate fully in all aspects of society.

**Appointing Authority:** Any agency head, board, commission member, or other government official with the power to appoint or employ personnel in an agency position.

**Authority:** The Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Water Resources Authority, the Massachusetts Housing, and Finance Authority, the Massachusetts Convention Center Authority, and any other authority created by the General Court.

**Chief Diversity Officer:**Is the chief Affirmative Action/Diversity Manager for internal employment of the Commonwealth's executive branch. The Chief Diversity Officer carries out the Commonwealth’s policy on non-discrimination, diversity, equal opportunity, and affirmative action. The Chief Diversity Officer ensures compliance with Governor’s mandates under Executive Order 592.

**Civil Rights:** Rights belonging to an individual by virtue of citizenship, especially the fundamental freedoms and privileges guaranteed by law. Including civil liberties, due process, and freedom from discrimination.

**COE: The Center of Expertise,**whichinvestigates complaints made by or against Executive Department employees related to: [Discrimination](https://www.mass.gov/executive-orders/no-526-order-regarding-non-discrimination-diversity-equal-opportunity-and), [Sexual Harassment](https://www.mass.gov/service-details/sexual-harassment-policy), [Domestic Violence/Sexual Assault/Stalking](https://www.mass.gov/executive-orders/no-491-establishing-a-policy-of-zero-tolerance-for-sexual-assault-and-domestic), [Workplace Violence](https://www.mass.gov/doc/workplace-violence-policy/download), and Retaliation related to one of the aforementioned policies or Executive Orders.

**Confidentiality:**Anyone using the Resolution Process shall be informed that the process is designed to maintain confidentiality, and only those parties involved, parties impacted, or those who need to know will be involved. All parties involved in an investigation shall be advised to maintain confidentiality regarding the complaint at issue, from the initial meeting until final agency finding, to safeguard all involved’ s privacy and reputation(s).

**Complainant:** Any individual within the Executive Branch and subject to the scope of the Office of Diversity and Equal Opportunity who alleges a violation of affirmative action or anti-discrimination rights and seeks redress through the Resolution Process.

**Complaint Form:** Is the primary form used for each complaint. The form is initially filled out by the complainant, signed by the complainant, and is provided to the investigator.

**Complaint Log:** The log provides a record of the nature and status of each complaint. The original log is generated at the agency level; a copy of this log is kept at the executive office and the ODEO. The complaint status is updated at the end of each phase of the Resolution Process.

**Competent Medical Authority:**A physician, osteopath or psychologist licensed by the Commonwealth of Massachusetts, including a physician or psychiatrist from a Veterans Administration Hospital or clinic or from a Massachusetts Department of Mental Health facility or, for the limited purpose of diagnosing pregnancy and pregnancy-related incapacity, a nurse-midwife or nurse practitioner who meets the educational and certification requirements mandated by state law and/or regulations.

**Designated State Agency:**A state agency including but not limited to agencies such as the Commission for the Blind, Commission for the Deaf and Hard of Hearing, Department of Mental Health, Department of Developmental Services, or the Massachusetts Rehabilitation Commission, which, because of the nature of its mission and function, has reason to have verified the individual's disability-related information.

**Disability:**(a) A physical or mental impairment, which substantially limits one or more major life activities, (b) a record of such impairment, or (c) being regarded as having such impairment.

Unless specifically stated to the contrary, disability in these guidelines shall be synonymous with the term “handicap” as used in chapter 151B §1 (16), (17) of the General Laws and its implementing regulations in 804 CMR §3.01 (5).

**Discrimination:**

“Discrimination,”

1. Conduct in violation of state or federal non-discrimination laws;
2. Unfair treatment because of an individual’s membership in a protected class under state or federal non-discrimination law; or
3. Unfavorable treatment of an individual as compared to others similarly situated with respect to the terms, conditions, or privileges of employment because the individual is a member of a class protected by law. Discrimination may involve, but is not limited to:
	1. Harassment, by creating, or allowing to exist, an environment hostile to an individual’s membership in a protected class;
	2. Failing to provide a reasonable accommodation to an individual’s disability; or
	3. Pursuing a practice or policy, which, while it appears neutral on its face, has a disproportionate and unfavorable impact on individuals who are members of a protected class.

**Discrimination Rights:**All rights assured under MGL 151B that prohibit discrimination on the basis of age, criminal records (inquires only), disability, gender, genetics, military status, national origin, religion, race, color, sexual orientation, ancestry, retaliation, or for failure to make reasonable accommodation for a person's disability**.**

**Disparate treatment:** also known as adverse treatment, occurs when an employer treats an employee unfairly compared to other employees based on their personal characteristics, especially in regard to protected classes.

**Diversity:** A policy or program that values differences among the Commonwealth’s employees and all those with whom it does business.

These differences include but are not limited to race, gender, gender identity or expression, color, national origin and ancestry, religion, age, mental/physical disabilities, sexual orientation, veteran’s status, organizational level, economic status, geographical origin, marital status, communication and learning styles, and the other characteristics and traits. The goal of this policy is to develop an inclusive environment that capitalizes on each individual’s talents, skills, and perspectives to increase organizational productivity and effectiveness.

**Diversity Officers and Diversity Directors:**

o An Agency Diversity Officer is a person who reports directly to the agency head to administer and implement the diversity and affirmative action plans of that Agency or appointing authority.

o A Secretariat Diversity Director is a person who reports directly to the Secretary. They supervise the development and implementation of diversity and affirmative action plans for their Secretariat.

**Equal Employment Opportunity Commission (EEOC):** The federal agency responsible for setting affirmative action and anti-discrimination policy and procedures for the employment of individuals with disabilities and the enforcement thereof under a variety of federal laws.

**Equal Opportunity:**An organization’s efforts to ensure that all personnel, service, programs, policies, and practices will be formulated and conducted in a manner that provides equal access to all employees and applicants.

**Essential Functions of the Job:**Those functions that must necessarily be performed by an employee in order to accomplish the principal objectives of the job. Put another way, the "essential functions" are those that are not incidental or tangential to the job in question. Several considerations bear on whether particular job functions are or are not essential:

**A.** First, functions that are identified as part of a job, but which are in fact rarely or never performed will not likely be considered essential.

**B.** Second, in determining whether a job function is essential, the EEO Commission will ask whether removing a given function from the job would fundamentally change the nature of the job in question. Thus, for example, while a firefighter may only be called upon to withstand the intense heat of flames on very rare occasions, removing this function from their job would fundamentally change the nature of the job.

**C.** Other considerations may also be taken into account in determining whether or not certain functions are essential to the job. Consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a timely written job description, this description shall be considered evidence of the essential functions of the job but will not be binding**.**

**D.** Additional considerations bearing on whether a function is essential include the amount of time spent on the job performing the function, the terms of a collective bargaining agreement, the work experience of past incumbents in the job, and the current work experience of incumbents in similar jobs.

**Facilitator:** The designated individual who carries out the responsibilities for conducting the **Out-of-Scope Investigations** performed at the Secretariat or Agency levels.

**Freeze:** To flag a position with the understanding that the ODEO will approve no personnel actions whatsoever regarding that position.

**Gender Identity:**Gender Identity is how someone identifies their gender- a person’s inner sense of ‘being’ male or female.

**Gender Expression:**Gender expression refers to how a person expresses their gender identity or cues people use to identify another person’s gender. This can include clothing, mannerisms, makeup, behavior, speech patterns, and more.

**General Counsel:** The General Counsel is the chief legal counsel in a department, Agency, or Secretariat.

**Harassment:** Conduct in the workplace that is severe, frequent, physically threatening or humiliating, and reasonable interferes with an employee’s work performance.

**HRBP**: Human Resources Business Partner focus more on organization-wide functional processes and systems, people strategies and high-quality service delivery. They are responsible for aligning the business objectives of the Agency and Secretariat with the management and employee processes to ensure they achieve expected outcomes.

**Impairment:**A physiological disorder affecting one or more of a number of body systems or a mental or psychological disorder. The following conditions, for example, are not impairments :

* Environmental, cultural, and economic disadvantages
* Homosexuality, bisexuality, and other sexual orientation.
* Normal pregnancy.
* Personality traits that are not caused by mental or psychological disorders.
* Normal deviations in height, weight, or strength.
* The current, illegal use of a controlled substance, or the non-dependent use of alcohol.

Individuals with illnesses, such as hepatitis, tuberculosis, or AIDS, may be considered to have a disability.

**Intake Interview:** The initial interview between the Complainant and the Facilitator, for an Out-of-Scope Investigation.

**Language Access Coordinator**: As described in Administrative Bulletin #16, the Language Access Coordinator is the individual responsible for agency implementation and compliance with the Language Access Plan. This individual reports to the agency head or their designee.

**Major Life Activities:** (1) In general, Major Life Activities include, but are not limited to : (i) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working and (ii) The operation of a major bodily function, including functions of the immune system, special sense organs, and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. (2) In determining other examples of major life activities, the term “major” shall not be interpreted strictly to create a demanding standard for disability. ADAAA Section 2(b) (4) (Findings and purposes). Whether an activity is a “major life activity” is not determined by reference to whether it is of “central importance to daily life.

**MCAD:** Massachusetts Commission Against Discrimination**,** the state agency created by MGL c.6, §56, responsible for enforcing the Commonwealth’s laws against discrimination in employment, housing, public accommodations, education, and credit. In addition to receiving, investigating, and deciding complaints of discrimination, the commission is charged by statute to make recommendations to agencies and officers of the Commonwealth or its political subdivisions in aid of its policies and the purposes of the anti-discrimination law and to obtain, upon request, and utilize the services of all executive departments and agencies.

**Mitigating Measures:**The existence of impairment is determined without regard to whether its effect can be mitigated by measures such as medication, auxiliary aids, or prosthetic devices. Examples of mitigating measures include but are not limited to:

**(3)**Medication, medical supplies, equipment, or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies;

(ii) Use of assistive technology;

(iii) Reasonable accommodations or “auxiliary aids or services” (as defined by [42 USC 12103](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+42USC12103)(1));

(iv) Learned behavioral or adaptive neurological modifications; or show

(v) Psychotherapy, behavioral therapy, or physical therapy. §1630.2(j) (5).

**MOD:**Massachusetts Office on Disability, the state agency created by MGL chapter 6 § 185, et seq. It is responsible for overseeing compliance by the Commonwealth with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, MGL chapter 151B, and other disability-related laws and regulations. Among other responsibilities, MOD provides technical assistance to state agencies and their appointing authorities for and monitors compliance with the non-discrimination aspect of this Order. For state compliance with all state and federal disability-related laws and regulations.

**OAO:**The Office of Access and Opportunity, established pursuant to Executive Order 559, has a mission to ensure compliance with Executive Order 559. Concerning these guidelines, the Office of Access and Opportunity will perform principally in a role that supports the work and efforts of the Office of Diversity and Equal Opportunity and the Massachusetts Office on Disability.

**ODEO:**Office of Diversity and Equal Opportunity (formally the State Office of Affirmative Action was established by Executive Order 227) and continues its existence through Executive Order 592;toensure Commonwealth’s compliance with State and Federal Affirmative Action laws, regulations, and executive orders. It develops, implements, and enforces policies and procedures on affirmative action, equal opportunity, and non-discrimination in employment and acts to ensure employment and contractual opportunities for minorities, women, certified Vietnam Era Veterans, and persons with disabilities. Its oversight responsibilities extend to all secretariats and their respective agencies and commissions within the Executive Branch of state government***.***

**OER:**The Office of Employee Relations, the state government entity within the Massachusetts Human Resources Division that manages labor relations with the unions that represent employees in all Executive branch departments.

**Person with Disability:** Any person who (a) has a physical or mental impairment that substantially limits one or more major life activities; (b) has a record of such impairment; or (c) is regarded as having such impairment.

**People of Color:** A person who has a racial identity other than white.

**Protected Class:**Legally identified groups that are specifically protected against discrimination in EO 592. The term “protected class status” shall include race, color, age, gender, ethnicity, sex (including pregnancy), sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, genetics, disability, or veteran’s status.

**Qualified Person with a Disability:** A person with a disability who can perform the essential functions of a job with or without reasonable accommodation.

**Reasonable Accommodation:** An adjustment or alteration that enables a person with a disability to apply for jobs, to gain access to the work environment, to perform job duties, or to enjoy the benefits and privileges of employment.

**Record of Impairment:**A person is considered to have a “disability” if they have a past record or medical history of a physical or mental impairment that substantially limited one or more major life activities, even though the impairment may no longer exist. For example, a person who was treated for cancer five years earlier but who has been cancer-free since that time may still be entitled to protection under the law as a “person with a disability.”

**Record Keeping/Monitoring System:** The Agency should maintain a written record (preferably retained in computerized base) of each internal and external complaint filed the nature of the complaint, the date filed, the name of the alleged wrongdoer, the name of the complainant, and the date and nature of the final resolution.

**Regarded as Having an Impairment/Perceived Disability:** An individual is considered to have a “disability,” even if they have no physical or mental impairment that substantially limits one or more major life activities if the individual is regarded as having such an impairment. For example, a person who has high blood pressure or a spinal defect or is morbidly obese might have no functional impairments but may be “disabled” if their employer regards such condition as a health risk or believes that hiring them will increase employee group insurance rates.

**Retaliation:** The law and these guidelines protect the individual’s right to file a complaint without retaliation. Retaliation against a person who files a complaint, based on a reasonable belief that a violation has occurred, whether or not the allegation proves to be true, is in itself illegal.

**Sexual Harassment:** Sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when (a) submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

**Substantially Limits:** An impairment is substantially limiting if it prohibits or significantly restricts an individual’s ability to perform a major life activity. The term “substantially limits” is to be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of ADA. The ADAAA provides examples of specific impairments that should easily be concluded to be disabilities and examples of major life activities (including major bodily functions) that the impairments substantially limit. The impairments include deafness, blindness, intellectual disability(formerly known as mental retardation), partially or completely missing limbs, mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV infection, multiple sclerosis, muscular dystrophy, major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia. [Section 1630.2(j) (3)].

The determination of whether an impairment substantially limits a major life activity requires an individual assessment, with one exception “ordinary eyeglasses or contact lenses”; the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication or hearing aids.

An episodic impairment or in remission is a disability if it substantially limits a major life activity when active.

**Supplier Diversity Office:** The Massachusetts Supplier Diversity Office (SDO), established within the Executive Office of Administration Secretariat, works with the Governor’s Office of Access, Opportunity, and Community Affairs, sets spending goals for Executive Departments, also called benchmarks, for purchasing from MBE, WBE, and SDVOBE/VBE businesses. While spending goals have not yet been established for DOBE and LGBTBE businesses, state agencies are encouraged to include them in their purchasing efforts. Only those businesses certified by the SDO or SDO-recognized third-party certification organizations qualify for the program.

**Timelines:** Timelines for processing reasonable accommodation appeals are measured in calendar weeks (seven consecutive days).

A timeline begins when the person responsible for a specific phase of the appeal process receives the necessary information regarding the appeal. Timelines for the appeal process were established to facilitate the procedures and can be extended upon mutual agreement between the ADA Coordinator and the Director.

**Transgender:**Transgender is an umbrella term for individuals who transition from one gender to another and/or people who defy social expectations of how they should look, act, or identify based on their birth sex.

**Undue Hardship:** Significant difficulty or expense when considering the nature and cost of a reasonable accommodation to an individual’s disability, the overall financial resources of the organization, number and type of employees and facilities, and the type of operations of the organization.

**Veteran Status:**Vietnam Era Veterans must have served in the United States Military during the Vietnam Era, during the period outlined below: The individual must meet ALL of the following conditions to qualify for this status: 1) was a member of any branch of the armed service of the United States military during time frames as outlined in 3 CFR 1971 – 1975; 2) completes a Veterans Certification form; 3) provides a copy of either a DD214 or a DD215 (correction form), as proof of military service; 4) receives a certification number from the Commonwealth’s Office of Diversity & Equal Opportunity.

#### Addendum

##### Form 592A: Formal Written Request for a Reasonable Accommodation

Type Agency Name

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.

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| --- | --- |
| Employee ID: |       |

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Date of Request: |       |

|  |  |  |  |
| --- | --- | --- | --- |
| Address: |       | City: |       |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| State: |       | Zip Code: |       | Telephone: |       |

|  |  |
| --- | --- |
| Work Location: |       |

|  |  |  |  |
| --- | --- | --- | --- |
| Work Telephone: |       | Work Email: |       |

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Accommodation Requested (see below): |       |

|  |  |
| --- | --- |
| Limitations Requiring Accommodation: |       |

Position / Service / Examination for which Accommodation is requested:

|  |
| --- |
|       |

1

FORM 592A

**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, workstations, 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 Reasonable 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:**

Click or tap here to enter text.

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Requestor or Person |  | Relationship to Requestor |

It is the policy of the Agency **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: |       |

|  |  |
| --- | --- |
| Address: |       |

|  |  |  |  |
| --- | --- | --- | --- |
| Work Telephone: |       | Work Email: |       |

**If you have further questions, please contact the Program Coordinator for the Disabled, Office of Diversity and Equal Opportunity, 617-727-7441, TTY 617-727-6015.**

FORM 592A

2

##### Form 592B: Decision to Grant Reasonable Accommodation

Insert Agency Name

Decision to Grant Reasonable Accommodation

|  |  |
| --- | --- |
| Name of person requesting accommodation: |       |

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Head of agency or designee: |       |

|  |  |
| --- | --- |
| Date accommodation requested: |       |

|  |  |
| --- | --- |
| Accommodation requested: |       |

|  |  |
| --- | --- |
| Recommendations: |       |

**THIS SECTION IS TO BE COMPLETED BY THE HEAD OF AGENCY.**

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| --- | --- |
| Accommodation: |       |

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| --- | --- |
| Approved: |       |

|  |  |  |  |
| --- | --- | --- | --- |
| \S\ Signature: |       | Date: |       |

|  |  |
| --- | --- |
| Title of Agency Head: |       |

FORM 592B

##### Form 592C: Decision to Deny Reasonable Accommodation

Insert Agency Name

Decision to Deny Reasonable Accommodation

|  |  |
| --- | --- |
| Name of individual requesting accommodation: |       |

**Always complete paragraphs 1-9.**

|  |  |
| --- | --- |
| 1. Agency:
 |       |

|  |  |
| --- | --- |
| 1. Agency ADA / 504 Coordinator:
 |       |

|  |  |
| --- | --- |
| 1. Head of agency or designee:
 |       |

|  |  |
| --- | --- |
| 1. Date accommodation requested:
 |       |

|  |  |
| --- | --- |
| 1. Date accommodation denied:
 |       |

|  |  |
| --- | --- |
| 1. Accommodation requested:
 |       |

|  |  |
| --- | --- |
| 1. Reason for denial:
 |       |

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| --- | --- | --- |
| (A) | [ ]  | Undue hardship. (Explain) |

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| --- |
|       |

|  |  |  |
| --- | --- | --- |
| (B) | [ ]  | The agency can demonstrate that the requested accommodation is not required to perform the essential functions of the job. |

|  |  |  |
| --- | --- | --- |
| (C) | [ ]  | The agency can demonstrate that the individual cannot perform the essential functions of the job even with reasonable accommodation. |

|  |  |  |
| --- | --- | --- |
| (D) | [ ]  | The accommodation would eliminate an essential function of employee’s job. |

|  |
| --- |
| Essential function being eliminated:       |

|  |  |  |
| --- | --- | --- |
| (E) | [ ]  | The accommodation would result in a direct threat to the health or safety of the employee or others. |

|  |  |  |
| --- | --- | --- |
| (F) | [ ]  | Other or Additional Information (Explain) |

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| --- |
|       |

1. Alternative accommodation proposed by applicant or employee and rejected by agency:

|  |
| --- |
|       |

1. Alternative accommodation proposed by agency and rejected by applicant or employee:

|  |
| --- |
|       |

If you checked **7A**, complete the following:

1

|  |  |
| --- | --- |
| 1. Number of agency employees:
 |       |

|  |  |
| --- | --- |
| 1. Number of agency facilities:
 |       |

|  |  |
| --- | --- |
| 1. Type of agency facilities:
 |       |

|  |  |
| --- | --- |
| 1. Total agency budget:
 |       |

|  |  |
| --- | --- |
| 1. Type of operation performed by agency:
 |       |

|  |
| --- |
| 1. Attach most recent affirmative action quarterly report to show composition of workforce.
 |

|  |  |
| --- | --- |
| 1. Structure of workforce:
 |       |

|  |  |
| --- | --- |
| 1. Cost of accommodation requested:
 |       |

If you checked **7B**, complete the following:

1. Explain in space the below, the grounds for the decision that the requested accommodation is not required to perform the essential functions of the position, which may be subject to review by the ODEO:

|  |
| --- |
|       |

If you checked **7C**, complete the following:

1. Explain in space the below, the grounds for the decision that the individual cannot perform the essential functions of the position even with reasonable accommodation, which may be subject to review by the ODEO:

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of ADA / 504 Coordinator |  | Date |

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Agency Head or Designee |  | Date |

**FINAL DECISION TO DENY**

When an agency has made a decision to deny, the agency will make two copies of this form and give the original to the requestor. Promptly deliver one copy to the Office of Diversity and Equal Opportunity (ODEO) and maintain one copy in a confidential separate from the employee’s file. Only the copy delivered to the requestor should bear that individual’s name.

The requestor shall be informed of his/her right to appeal to the Secretariat and the Office of Diversity and Equal Opportunity through the ODEO Reasonable Accommodation Request Process and the Resolution Process (See the ODEO Guidelines for the Implementation of Executive Order 592). The requestor shall also be advised in writing of his or her right to consult with and obtain assistance in pursuing their appeal through the Massachusetts Office on Disability.

FORM 592C

2

##### Form 592D: Appeal of Agency Denial of Reasonable Accommodation to the Secretariat

**Appeal of Agency Denial of Reasonable Accommodation to the Secretariat**

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Name of Applicant: |       |

|  |  |
| --- | --- |
| Reasonable Accommodation Requested: |       |

|  |  |
| --- | --- |
| Date of Request of Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Date of Agency Denial: |       |

I, Enter Name of Applicant., request that Enter Name of Secretariat. review the decision recently rendered by Enter Name of Agency. to my request for Reasonable Accommodations.

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Applicant |  | Date |

FORM 592D

##### Form 592E: Secretariat Decision to Grant Reasonable Accommodation

Enter Name of Secretariat.

Secretariat Decision to Grant Reasonable Accommodation

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Name of Applicant: |       |

|  |  |
| --- | --- |
| Reasonable Accommodation Requested: |       |

|  |  |
| --- | --- |
| Date of Request of Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Date of Agency Denial: |       |

After careful review of the materials presented by Enter Name of Applicant.in conjunction with his/her rights of appeal under Executive Order 592 and the Resolution process it is the determination of this office that a reasonable accommodation is warranted and is thereby granted to Enter Name of Applicant..

**Reasonable Accommodation Approved:**

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Secretary or ADA / 504 Coordinator |  | Date |

FORM 592E

##### Form 592F: Secretariat Decision to Deny Reasonable Accommodation

Enter Secretariat Name

Secretariat Decision to Deny Reasonable Accommodation

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Name of Applicant: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Date of Appeal of Denial of Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Date Agency Denied Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Reason for Denial: |       |

|  |  |  |
| --- | --- | --- |
| (A) | [ ]  | Undue hardship. (Explain) |

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| (B) | [ ]  | The agency can demonstrate that the requested accommodation is not required to perform the essential functions of the job. |

|  |  |  |
| --- | --- | --- |
| (C) | [ ]  | The agency can demonstrate that the individual cannot perform the essential functions of the job even with reasonable accommodation. |

|  |  |  |
| --- | --- | --- |
| (D) | [ ]  | The accommodation would eliminate an essential function of employee’s job. |

|  |  |
| --- | --- |
| Essential function being eliminated: |       |

|  |  |  |
| --- | --- | --- |
| (E) | [ ]  | The accommodation would result in a direct threat to the health or safety of the employee or others. |

|  |  |  |
| --- | --- | --- |
| (F) | [ ]  | Other or Additional Information. (Explain) |

|  |
| --- |
|       |

Additional Comments:

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Secretariat ADA / 504 Coordinator |  | Date |

FORM 592F

##### Form 592G: Appeal of Secretariat Denial of Reasonable Accommodation to ODEO

Appeal of Secretariat Denial of Reasonable Accommodation to ODEO

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Name of Applicant: |       |

|  |  |
| --- | --- |
| Reasonable Accommodation Requested: |       |

|  |  |
| --- | --- |
| Date of Request of Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Date of Secretariat Denial of Reasonable Accommodation: |       |

I, Enter name of applicant.**,** request that the Office of Diversity and Equal Opportunity review the decision recently rendered by Enter name of Secretariat. to my request for Reasonable Accommodations.

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Applicant |  | Date |

FORM 592G

##### Form 592H: ODEO Decision to Grant Reasonable Accommodation

Office of Diversity and Equal Opportunity Decision to Grant Reasonable Accommodation

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Name of Applicant: |       |

|  |  |
| --- | --- |
| Reasonable Accommodation requested: |       |

|  |  |
| --- | --- |
| Date of Requested of Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Date of Secretarial Denial: |       |

After careful review of the materials presented by Enter Name of Applicant. in conjunction with his/her rights of appeal under Executive Order 592 and the Resolution process it is the determination of this office that a reasonable accommodation is warranted and is thereby granted to Enter Name of Applicant..

Reasonable Accommodation Approved:

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Director of ODEO or designee |  | Date |

FORM 592H

##### Form 592I: ODEO Decision to Deny Reasonable Accommodation

Office of Diversity and Equal Opportunity Decision to Deny Reasonable Accommodation

|  |  |
| --- | --- |
| Agency: |       |

|  |  |
| --- | --- |
| Name of Applicant: |       |

|  |  |
| --- | --- |
| Agency ADA / 504 Coordinator: |       |

|  |  |
| --- | --- |
| Date of Appeal of Denial of Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Date Secretariat Denied Reasonable Accommodation: |       |

|  |  |
| --- | --- |
| Reason for Denial: |       |

|  |  |  |
| --- | --- | --- |
| (A) | [ ]  | Undue hardship. (Explain) |

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| (B) | [ ]  | The agency can demonstrate that the requested accommodation is not required to perform the essential functions of the job. |

|  |  |  |
| --- | --- | --- |
| (C) | [ ]  | The agency can demonstrate that the individual cannot perform the essential functions of the job even with reasonable accommodation. |

|  |  |  |
| --- | --- | --- |
| (D) | [ ]  | The accommodation would eliminate an essential function of employee’s job. |

|  |
| --- |
| Essential function being eliminated:       |

|  |  |  |
| --- | --- | --- |
| (E) | [ ]  | The accommodation would result in a direct threat to the health or safety of the employee or others. |

|  |  |  |
| --- | --- | --- |
| (F) | [ ]  | Other or Additional Information. (Explain) |

|  |
| --- |
|       |

Additional Comments:

|  |
| --- |
|       |

|  |  |  |
| --- | --- | --- |
| \S\       |  |       |
| Signature of Director or designee |  | Date |

FORM 592I

##### Self-Identification & Verification Forms

(Insert Agency Name)

(Insert Agency Logo)

TO: All Staff

FROM: Name
 ADA/504 Coordinator

DATE: 00/00/0000

RE: Invitation to Self-identify as a Person with a Disability

Each employee and applicant for employment within the executive branch of state government is invited to indicate whether they have a disability.

This information is intended for use solely in connection with the Commonwealth’s Affirmative Action and Equal Employment Opportunity efforts. It is being requested on a voluntary basis, and refusal to provide it will not subject you to any adverse treatment.

If you would like to self-identify as an individual with a disability, please complete the attached “Confidential Self-identification of Disability” form and return it to me.

The information you provide will be kept confidential by the ADA/504 Coordinator in a file separate from your personnel file and used only in accordance with the Office of Diversity and Equal Opportunity Guidelines and any applicable Federal regulations (e.g., 45 C.F.R. Part 84 and 29 C.F.R. §1630) implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the American with Disabilities Act 42 U.S.C. §12,101 et seq.

Copies of the Executive Order and other regulations are available through my office.

(Insert Agency Name)
(Insert Agency Logo)

SELF IDENTIFICATION OF DISABILITY FORM

This information is intended for use solely in connection with the Commonwealth’s Affirmative Action and Equal Employment Opportunity efforts. It is being requested on a voluntary basis and refusal to provide it will not subject you to any adverse treatment. The information will be kept confidential and used in accordance with the Office of Diversity and Equal Opportunity guidelines and any applicable Federal regulations (e.g., 45 C.F.R Part 84) implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The self-identifying individual must submit to the ADA/504 Coordinator this self-identification of Disability form.

A self-identification is presumed accurate. As a general rule agencies may not ask employees to verify their disability. Verification of disability by competent medical authority or designated agency will only be required when both of the following criteria are present: (A) The individual’s status as a person with a disability is potentially relevant, as a beneficial factor, in connection with a pending employment decision, such as being hired or promoted or being spared a lay-off; and (B) The individual’s status as a person with a disability is not obvious. Where a verification request is made, an employee who had self-identified as a person with a disability may be asked to submit a Confidential Verification of Disability form to the agency ADA/504 Coordinator within thirty (30) working days of the agency’s ADA/504 Coordinator’s request.

**DO YOU QUALIFY FOR PROTECTED STATUS?**

You will qualify for protected status if you (1) have a physical or mental impairment which substantially limits one or more major life activities, (2) have a record or such an impairment or (3) you are regarded as having such an impairment. “Major Life Activities” include, but are not limited to: (i) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and (ii) the operation of a major bodily function, including functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

***PLEASE PRINT:***

Name  Address 

I am employed  [Job Title if any] OR I am an applicant for employment
 [Department/division/agency] Voluntarily self-identify as a person
with a disability, according to the definition given above.

I understand that my protected status is subject to verification.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Confirmation of receipt by ADA/504 Coordinator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [Signature of ADA/504 Coordinator]

**Verification of Disability**

Each employee and applicant for employment within the executive branch of state government is invited to indicate whether they are a person with a disability. An employee who has self-identified as a person with a disability may be asked to submit this confidential Verification of Disability form to the agency ADA/504 Coordinator within thirty (30) working days of the agency’s ADA/504 Coordinator’s request. Verification of disability by a competent medical authority or designates agency will only be required when both the following criteria are present: (A) The individual’s status as a person with a disability is potentially relevant, as a beneficial factor, in connection with a pending employment decision, such as being hired or promoted, or being spared a layoff; and (B) The individual’s status as a person with a disability is not obvious.

Designated state agencies include the Commission for the Blind, the Commission for the Deaf and Hard of Hearing, the Department of Mental Health, the Department of Developmental Services, the Department of Transitional Assistance, the Division of Medical Assistance, and the Massachusetts Rehabilitation Commission. If verification is deemed sufficient, a confirmation will be given to the individual.

|  |
| --- |
| 1AUTHORIZATION FOR COMPLETION OF FORMBY A COMPETENT MEDICAL AUTHORITY\*Please Print: I authorize\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to complete this form.[Competent Medical Authority or agency representative completing this form]Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Telephone\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of individual requesting verification]Street\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State\_\_\_\_\_\_\_ Zip Code:\_\_\_\_\_\_\_Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Signature of individual requesting verification] |
| *Instructions to competent Medical Authority or Agency completing the rest of the form*The above individual has a limited time (normally (30) working days) to provide verification of their disability. Your cooperation in promptly completing and returning this form to the individual for submission to the ADA/504 Coordinator will be appreciated.If the above individual (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) have a record of such an impairment or (3) you are regarded as having such an impairment. “Major Life Activities” include, but are not limited to: (i) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and (ii) the operation of a major bodily function, including functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. Please place a check mark below to verify that the above individual has a disability as described above, do not identify the individual’s precise disability, or add information about the individual’s medical condition or history to this form.\_\_\_\_\_\_\_ I verify that the above-named individual has a disability as described above.  |

|  |
| --- |
| Medical Professional Information and Signature |
|  |
| Name:License: |
| Address:City/St./ZIP |
| Medical Professional’s Signature:Date |

\*Competent Medical Authority is a physician, osteopath, nurse practitioner, or psychologist licensed by the Commonwealth of Massachusetts including a physician or psychiatrist from a Veterans Administration Hospital or clinic or from a Massachusetts Department of Mental Health facility or, for the limited purposes of diagnosing pregnancy and pregnancy-related incapacity, a nurse-midwife or nurse practitioner who meets the educational and certification requirements mandated by state law and /or regulations.

2

(Insert Agency Name)

(Insert Agency Logo)

CONFIRMATION OF DISABILITY STATUS

This document confirms that the employee named below has self-identified as a person with a disability and has provided verification of the disability in the Confidential Verification Disability form.

 (**Signature**)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

##### Vietnam Era Veterans Certification Form

**OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY
REQUEST FOR CERTIFICATION OF AFFIRMATIVE ACTION STATUS**

I do hereby request a certificate of Vietnam Era Veteran Status. I understand in accordance with the rules and regulations formulated pursuant to **Executive Order 592** that this request is required to be completed and approved as prerequisite to a certificate being issued.

**PLEASE PRINT** Home phone #: \_\_\_\_\_ \_\_\_\_ \_\_\_\_ Work phone #: \_\_\_\_ \_ \_\_\_\_\_\_\_\_

NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CITY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_STATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ZIP: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SOCIAL SECURITY NO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATES OF ACTIVE SERVICE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DD Form 214 must be attached to this application. *Submit a copy not the original*. DD form 215 (Correction of the DD form 214) may also be submitted in addition to DD form 214. NO other document is acceptable for the program.**

\_\_\_\_\_\_ DD FORM 214 Employed by the State? Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

\_\_\_\_\_\_ DD FORM 215 Applying for a position? Yes \_\_\_\_\_\_ No \_\_\_\_\_\_

Name of current State Employer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**I attest that the information, which I have provided, is true and accurate. Further, I understand that the Office of Diversity and Equal Opportunity reserve the right to request additional documentation, and/or revoke my certified status if the information or documents, which have been submitted to substantiate your request, are not authentic.**

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IMPORTANT: (section below must be completed by a notary public)**

County:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me the said \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

who made oath that the foregoing was their free act and deed.

Candidate’s Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Human Resources Division**

Office of Diversity and Equal Opportunity

 100 Cambridge Street, Suite 600Boston, MA. 02114

##### Accountability Policy

**ACCOUNTABILITY POLICY
FOR AFFIRMATIVE ACTION PLANS
FOR EXECUTIVE BRANCH AGENCIES**Issued by the Human Resources Division
Office of Diversity and Equal Opportunity
Commonwealth of Massachusetts
March 2021

I. INTRODUCTION

The Office of Diversity and Equal Opportunity (ODEO) in discharging its duties under Executive Order 592 shall monitor and assess the Secretariat and Agency compliance with developing, implementing, and achieving goals in Affirmative Action and Diversity plans. Timely submission of Affirmative Action and Diversity Plans is a critical component of such compliance.

This policy applies to all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices.

II. GENERAL PROVISIONS:

All executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices for timely submission of Affirmative Action Plans, Diversity Plans, Quarterly Reports and Progress Reports and to remind stakeholders of the consequences of non-compliance.

The Office of Diversity and Equal Opportunity (ODEO) publishes an annual calendar informing Executive Departments of due dates for quarterly reports. Generally, agency quarterly reports are due two weeks following the close of the quarter, and secretariat quarterly reports are due four weeks after the close of a quarter.

ODEO also publishes an annual calendar of specific due dates for Affirmative Action, Diversity Plans and Progress reports. Affirmative Action and Diversity Plans are developed every two years. Progress reports for Affirmative Action and Diversity Plans are due annually, generally one month after the close of the fiscal year.

III. PROCEDURES OR INSTRUCTIONS

The Office of Diversity and Equal Opportunity shall initiate a review process after the stated due date for submission of Affirmative Action and Diversity Plans to determine compliance. Agencies that did not comply with established due dates will be deemed non-compliant and will trigger ODEO’s escalation process. In our efforts to assist you in being compliant as standard practices our communications around missed deadlines will be as follows:

1

|  |  |
| --- | --- |
| **Plan Overdue** | **ODEO Action** |
| 3 days | Reminder to Agency Diversity Director with copy to Secretariat Diversity Director |
| One week | Reminder to Agency Diversity Officer with copy to Secretariat Diversity Director. Notice of late submission made to CHRO with recommendation for hiring freeze until agency is compliant. |
| Two weeks | Hiring Freeze on all personnel transactions until compliant. |

IV. ROLES AND RESPONSIBILITIES

Diversity Director/Diversity Officer: Shall be responsible for submitting Secretariat or Agency Affirmative Action and Diversity Plans. They are responsible for reporting on the progress they are making towards achieving stated Affirmative Action goals on a quarterly basis via HR Analytics Quarterly Report. Reports shall be submitted promptly accordingly to the calendar and/or timeframe provided by the Office of Diversity and Equal Opportunity.

Agency Heads: Shall be held accountable for reviewing and approving in a timely manner their Affirmative Action and Diversity Plans. Late submissions will be deemed non-compliant and will trigger consequences for non-compliance, including invoking hiring freezes on personnel requisitions until such time as the Agency or Secretariat becomes compliant.

ODEO: The Office of Diversity and Equal Opportunity will continue to publish and circulate the calendar of due dates for submission of Affirmative Action and Diversity Plans, Progress Reports, and Quarterly Reports. ODEO will also continue to apprise you in a timely manner of actions needed and when reports are outstanding.

V. COMPLIANCE AND REMEDIES

Pursuant to Executive Order 592, ODEO will institute an agency-wide hiring freeze for the failure to submit the plan within two weeks of the due date.

VI. RELATED POLICIES OR RESOURCES

Executive Order 592

VII. DOCUMENT HISTORY

|  |  |  |  |
| --- | --- | --- | --- |
| **Date Issued** | **Action** | **Effective Date** | **Next Review Date** |
| 03/01/2021 | Original policy issued | 03/01/2021 | 03/01/2022 |
|  | Policy Review - update |  |  |

2

### Appendix 7: State Accessibility Links

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

[**Massachusetts Office of Diversity and Equal Opportunity (ODEO)**](https://www.mass.gov/diversity-and-affirmative-action-programs) works to carry out the Governor's mandate to ensure practices of non - discrimination and equal opportunity and to deliver customer-focused solutions in attracting, hiring, retaining and promoting a diverse workforce within the Commonwealth of Massachusetts.

[**Massachusetts Commission Against Discrimination** **(MCAD)**](https://www.mass.gov/orgs/massachusetts-commission-against-discrimination) works to ensure equality of opportunity by enforcing the Commonwealth's anti-discrimination laws in employment, housing, public accommodations, credit, mortgage lending, and education. Established by Massachusetts General Law Chapter 6, Section 56, the MCAD enforces the following General Laws: Chapter 149, Sections 105D and 191, Chapter 151B, Chapter 151C, Chapter 272, Section 92A, Section 98 and 98A, and Chapter 111, Section 199A. MCAD works to eliminate discrimination and advance the civil rights of the people of the Commonwealth of Massachusetts through law enforcement (filing of complaints, investigations, mediations and conciliations, hearings, and litigation) and outreach (training sessions, public education, and testing programs).

[**Massachusetts Commission for the Blind (MCB)**](http://www.mass.gov/mcb) provides a broad array of social and rehabilitative services to all legally blind residents of the Commonwealth of Massachusetts. MCB provides the highest quality rehabilitation and social services to blind individuals, leading to independence and full community participation.

[**Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH)**](https://www.mass.gov/orgs/massachusetts-commission-for-the-deaf-and-hard-of-hearing) works to explore innovative solutions for accessible communication, to identify links to resources and supports, and to become better prepared for current and future challenges impacting people who are deaf, hard of hearing, and late-deafened.

[**Massachusetts Rehabilitation Commission (MRC**](https://www.mass.gov/orgs/massachusetts-rehabilitation-commission)) promotes dignity for individuals with disabilities through employment and independent living in the community. MRC is responsible for Vocational Rehabilitation Services, Community Services, and eligibility determination for the Social Security Disability Insurance (SSDI) and the Supplemental Security Income (SSI) federal benefits programs.

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

[**Massachusetts Department of Developmental Services (DDS)**](http://www.mass.gov/eohhs/gov/departments/dds/)provides assistance in job placement, transportation, housing, or intense levels of treatment, monitoring and care. DDS provides these services through state-operated programs and with 265 provider agencies across the state. DDS is dedicated to creating, in partnership with others, innovative and genuine opportunities for individuals with developmental disabilities to participate fully and meaningfully in, and contribute to, their communities as valued members.

[**Massachusetts Executive Office of Technology Services and Security (EOTSS)**](http://www.mass.gov/it-accessibility)provides technology related guidance for Executive Branch Entities on accessibility, audits agencies for compliance with Executive Branch standards including Web sites and Applications standards. These standards roughly parallel those found in §508 of the Federal Rehabilitation Act.

[**Massachusetts Division of State Parks & Recreation,** Universal Access Program](http://www.mass.gov/eea/agencies/dcr/massparks/accessibility/) is dedicated to providing outdoor recreation opportunities in Massachusetts State Parks for visitors of all abilities. Accessibility to our State Parks is achieved through site improvements, specialized adaptive recreation equipment, and accessible recreation programs. Use this as a guide to discover the most accessible parks and forests that offer the recreation opportunities you seek.