

Massachusetts Office on Disability

DISABILITY RIGHTS LAWS IN MASSACHUSETTS



Sidewalk Sam

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INTRODUCTION

The Massachusetts Office on Disability (MOD) was created in 1981 under Chapter 6, Section 185 of the Massachusetts General Laws. One of the goals of the Office is to increase awareness of the rights of persons with disabilities. It is our hope that this Disability Laws booklet will be a helpful tool for people with disabilities as well as the larger community.

Other goals of the Office include:

- The elimination of discrimination against persons with disabilities;
- The creation of a barrier free environment;
- The improvement of the state's services delivery system for persons with disabilities, and
- The creation of fully integrated and accessible education, housing, transportation and employment in the public and private sectors.

To achieve its goals, MOD engages in activities such as the following:

- Monitors the performance of state and local governments in order to improve the treatment of persons with disabilities;
- Operates an information and referral system, the Client Services Program, and advocates for the rights of individuals attempting to obtain services to which they are entitled and for those who are attempting to enforce their civil rights;
- Operates a Community Services Program which focuses on improving access to public and private facilities in the Commonwealth, and which works with many individuals, community organizations, and municipalities to provide education and technical assistance to assure disability rights are enforced.

For further information about the Office on Disability, the details of the laws discussed in this pamphlet, or to obtain

assistance in asserting your rights, visit the MOD web site at <http://www.mass.gov/mod>, or call [617] 727-7440 or toll free at [800] 322-2020.

Notes:

- The materials contained in this pamphlet **ARE NOT** under a © copyright. The pamphlet may be quoted or photocopied without consent. However, attribution is requested.
- This book is not intended to be comprehensive. It offers only an overview of the most frequently referenced laws related to disability.
- Laws and regulations are changed frequently. The summaries in the pamphlet reflect the laws and regulations **in effect on July 1, 2011**. Please refer to the laws and regulations directly for the actual, current text.

ABUSE, NEGLECT & TREATMENT CONDITIONS

Massachusetts Disabled Persons Protection Act

[G.L. c. 19c](#)

This statute protects disabled persons, including persons with mental retardation, physical disabilities, and head injuries, who are between the ages of 18 and 59, and who, as a result of a disability, are dependent on others to meet their daily living needs. Anyone suspecting abuse can contact the Disabled Persons Protection Commission (DPPC). “Mandated reporters” (physicians, dentists, nurses, teachers, day care workers, etc.) must report cases of suspected abuse. After the suspected abuse is reported, the DPPC investigates allegations of abuse by caretakers only. In some cases, those investigations are referred to an agency within the Executive Office of Health and Human Services for intervention and further investigation. After the investigation (which should be completed within 24 hours if the call is an emergency and 10 days if it is not) protective services are delivered if appropriate

For more information or to report a case of abuse:

Disabled Persons Protection Commission

300 Granite Street, Suite 404

Braintree, MA 02184

617-727-6465

888-822-0350 TTY

Website: <http://www.mass.gov/dppc>

Massachusetts Mental Illness or Mental Retardation, Rights of Persons Receiving Treatment Act

[G.L. c. 123, § 23](#)

Individuals receiving treatment for mental illness or mental retardation are entitled to certain rights and privileges, such as sending and receiving mail, receiving visitors, using telephones and living in a humane psychological and physical environment.

[G.L. c. 123, §12](#)

Central to these rights is the limitation of the number of days people may be confined to a hospital without a court order.

Enforcement: Notice of the rights created under this law is to be prominently posted in all programs and facilities. Those notices include information about where and how to appeal violations of these rights.

Civil Rights of Institutionalized Persons Act

[42 U.S.C. §1997, et seq.](#)

The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the U.S. Attorney General to investigate conditions of confinement at state and local government institutions such as prisons, jails, pretrial detention centers, juvenile correctional facilities, publicly operated nursing homes, and institutions for people with psychiatric or developmental disabilities. Its purpose is to allow the Attorney General to uncover and correct widespread deficiencies that seriously jeopardize the health and safety of residents of institutions.

The Attorney General does not have authority under CRIPA to investigate isolated incidents or to represent individual institutionalized persons. The Attorney General may initiate civil law suits where there is reasonable cause to believe that conditions are "egregious or flagrant," that they are subjecting residents to "grievous harm," and that they are part of a "pattern or practice" of resistance to residents' full enjoyment of constitutional or Federal rights, including Title II of the ADA and section 504 of the Rehabilitation Act.

Enforcement:

U.S. Department of Justice, Civil Rights Division
950 Pennsylvania Avenue, N.W. , Room 5028
Special Litigation Section - PHB
Washington, D.C. 20530
(877) 218-5228 (Voice/TTY) or (202) 514-6255
Website: <http://www.usdoj.gov/crt/split>

ARCHITECTURAL ACCESS

Massachusetts Architectural Access Board

[G.L. c. 22, § 13A](#)

The Architectural Access Board (AAB) is a regulatory agency whose mandate is to develop and enforce regulations designed to make public buildings accessible to, functional for and safe for use by persons with disabilities. [See 521 C.M.R.](#) In addition to writing regulations, the Board decides on variance requests, provides training on its regulations, issues advisory opinions and makes decisions on complaints. Local building inspectors are responsible for enforcing the regulations which are a specialized section of the Massachusetts Building Code. [See 780 C.M.R.](#)

The construction, reconstruction, remodeling, alteration, or change of use of a building or facility that is open to the public triggers the authority of the AAB. New construction must fully comply.

For renovation, remodeling, or alteration:

- The work being done must comply with the regulations.
- If the work done in any 36-month period is greater than \$100,000, the “work being performed” is required to comply. In addition, an accessible entrance and an accessible toilet room, telephone and drinking fountain (if toilets, telephones and drinking fountains are provided) shall also be provided.

- If the work done in a 36-month period is more than 30% of the “full and fair cash value” of the building,¹ the entire building must come into compliance.

Enforcement: Anyone can file a complaint with the Board. The Board has the authority to issue variances and/or impose fines of up to \$1000 per violation per day of noncompliance with its order.

Call the AAB or go online for the appropriate complaint or variance forms.

Architectural Access Board
One Ashburton Place, Room 1310, Boston, MA 02108
(617) 727-0660
Website: <http://www.mass.gov/aab>

¹ This is usually the assessed value established by the city or town. See [521 C.M.R. § 5.38](#) for details about establishing value where no assessment exists.

Federal Architectural Barriers Act

[42 U.S.C. § 4151, et seq.](#)

The Architectural Barriers Act (ABA) requires that buildings and facilities that are designed, constructed or altered with federal funds, or leased by a federal agency, comply with federal standards for physical accessibility. [41 C.F.R. §101-19.6](#). ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. They do not address the activities conducted in those facilities. U.S. Postal Services facilities are also covered by the ABA.

Enforcement:

The United States Architectural and Transportation Barriers Compliance Board

1331 F Street, NW, Suite 1000

Washington, D.C. 20004-1111

(800) 872-2253 (Voice) / (800) 993-2822 (TTY)

Website: <http://www.access-board.gov> <http://www.access-board.gov/adaag/about/index.htm>

The United States Architectural and Transportation Barriers Compliance Board was created pursuant to Section 502 of the Federal Rehabilitation Act of 1973. See the *Federal Laws* section herein for more information.

Americans with Disabilities Act Accessibility Guidelines (ADAAG)

The [Federal Access Board](#) created the ADAAG in 1991, under authority granted by the Americans with Disabilities Act. The ADAAG, enforced by the United States Department of Justice, establishes uniform federal building standards for new construction and renovations. Pursuant to Section 35.151(c), the 2010 Standards became fully effective on March 15, 2012.

Both the 1991 ADAAG and 2010 Standards are online at:
<http://www.access-board.gov/ada>

Enforcement:

U.S. Department of Justice, Civil Rights Division
950 Pennsylvania Avenue, N.W. , Room 5028
Special Litigation Section - PHB
Washington, D.C. 20530
(877) 218-5228 (Voice/TTY) or (202) 514-6255

Website: <http://www.usdoj.gov/crt/split>

AUTOMOBILES & TRANSPORTATION

Americans with Disabilities Act: Title IIB Transportation

[42 U.S.C. § 12141, et seq.](#)

Public Transportation services, such as buses, subways and rail transit systems, may not discriminate against people with disabilities in the ways they provide their services. New public transit buses and rail vehicles ordered after August 26, 1990 must be wheelchair accessible. Transit authorities that operate fixed route bus or rail systems must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result. As of July 26, 1995, existing rail systems were required to have one accessible car per train. Key stations in rapid, light and commuter rail systems should have been made accessible by July 26, 1992, with extensions up to 20 years for commuter rail and 30 years for rapid and light rail for stations needing extraordinarily expensive structural changes. As of July 26, 2010, all existing Amtrak stations must be accessible. Private businesses that provide public transportation services have the same requirements as public transit agencies, except for automobiles. As of July 26, 1996 or 1997, depending on the size of the business, new over-the-road buses (Greyhound-type) must be accessible. Private businesses that provide transportation (such as hotels) must ensure disabled persons a level of service equivalent to that provided to the general public.

Under Title III, [42 U.S.C §12183, et seq.](#), the ADA also imposes restrictions on private transportation providers that offer their services to the public. Specifically, they may not impose or apply eligibility criteria that screen out or tend to

screen out an individual with a disability. They must make reasonable modifications to their policies, practices, and procedures, provide auxiliary aids and services and remove physical barriers to participation. In some circumstances, private transportation providers must also comply with requirement for the purchase or lease of new accessible vehicles.

Enforcement:

U.S. Department of Transportation
Federal Transit Administration
Kendall Square, 55 Broadway, Suite 920
Cambridge, MA 02142-1093
Phone: (617) 494-2055
Fax: (617) 494-2865

Website: http://www.fta.dot.gov/about_FTA.html

Individuals may also file private lawsuits

Federal Air Carrier Access Act

49 U.S.C. § 41705

Domestic air carriers may not refuse persons with disabilities transportation because of their disability. Some of the provisions include the following: Air carriers may not:

- limit the number of persons with disabilities on a flight,
- require special services (such as advance boarding),
- require advance notice except for certain accommodations,
- require travel with an attendant except in limited circumstances,
- charge for accommodations required by the law.

In addition, air carriers must:

- provide boarding assistance and assistance within the cabin, and
- give priority to storage of wheelchairs.

New aircraft over certain sizes must have movable armrests, accessible lavatories and space for storing wheelchairs (the larger the aircraft the more access is required).

Enforcement: Air carriers must establish their own compliance procedure, including “complaints resolution officials.” Complaints may also be filed with:
Aviation Consumer Protection Div., Office of the General Counsel, U.S. Department of Transportation
Suite W96-432 (West Building)
1200 New Jersey Ave, S.E., Washington D.C. 20590
(202) 366-2220 (Voice / TTY)

Website:

http://www.faa.gov/passengers/prepare_fly/#disabilities

Massachusetts Automobile Excise Tax Exemption

[G.L. c. 60A, § I](#)

Exempts qualified disabled persons from excise tax requirements. The motor vehicle must be owned and registered by a person who has suffered loss or permanent loss of use of both legs or both arms or loss of vision of both eyes to a certain degree. The exemption applies to one motor vehicle per person, owned and registered for their personal, noncommercial use. Applications for exemptions are available from the local town assessor’s office.

Massachusetts Automobile Sales Tax Exemption

[G.L. c. 64H, § 6\(U\)](#)

This law exempts certain people with disabilities from the purchase and use tax of a motor vehicle. To qualify, a disabled

person must be the original registered owner of the motor vehicle and have the loss of two or more limbs or permanent loss of use of at least 80% of two or more limbs. Parents and others, who transport similarly disabled children or adults, who have been found incompetent to legally enter into contracts, may also be entitled to this exemption. See [DOR Directive 03-11](#). The Department of Revenue has clarified that a wheelchair lift used to make a van accessible may also be exempt even if purchased separately from the vehicle. In cases where the lift is purchased after the van, a physician's prescription may be needed to document this exemption. See [DOR Directive 00-7](#).

Applications:

Department of Revenue, Customer Service Bureau
P.O. Box 7010, Boston, MA 02204
617-887-MDOR (6367), Toll-free in Massachusetts 800-392-6089, 617-887-6140 (TTY)

Website: <http://www.mass.gov/dor>

Or

Mass. Registry of Motor Vehicles, Medical Affairs
P.O. Box 55889, Boston, MA 02205-5889
(617) 351-9222 (Voice); (877) 768-8833 (TTY)

Website: <http://www.mass.gov/rmv>

Massachusetts Gas Station Law

[G.L. c. 94, § 295CC](#)

Every gas station owner offering motor fuel for sale from both full-service and self-service pumps shall dispense fuel from the self-service pump for any owner-operator of a motor vehicle bearing handicapped person or disabled veteran number plates as described in section two of chapter ninety (see section on Massachusetts Handicapped Plate and Placard Law below for more information). The gas station must display signs in a prominent location stating its

compliance with the provisions of this law. The division of standards shall develop standards for such signs including, but not limited to, size, text, legibility and location.

Note: The Americans with Disabilities Act also directs gas stations assist people with disabilities. See [ADA: Assistance at Self-Serve Gas Stations](http://www.ada.gov/gasserve.htm) <http://www.ada.gov/gasserve.htm>.

Enforcement:

Executive Office of Consumer Affairs
Division of Standards
One Ashburton Place, Room 1115
Boston, MA 02108
(617) 727-3480

Website: <http://www.mass.gov/standards>

Handicapped Parking Laws

Massachusetts Chapter 40 governs a variety of activities by cities and towns, including parking. The primary sections that deal with Accessible parking are:

1. Parking Lots:

[G.L. c. 40 § 21, ¶ 23](#): All parking lots and garages open to the public must comply with the parking regulations of the Architectural Access Board ([521 C.M.R.](#)), which are similar to but significantly different from the specifications of this accessible parking law. The law requires public or private parking areas that are used by the public to reserve designated parking spaces for vehicles, which bear an HP plate, placard or a disabled veteran plate. Standards under the Americans with Disabilities Act Accessibility Guidelines specify yet a third set of minimum number of spaces, and were revised effective March, 15, 2012. The minimum numbers for designated spaces are as follows:

Total Spaces	AAB	1991 ADAAG	2010²Standards
1 - 15	0	1	1
15 - 25	1	1	1
26 - 40	2	2	2
41 - 50	3	2	2
51 - 75	3	3	3
76 - 100	3	4	4
101 - 150	4	5	5
151 - 200	4	6	6
201 - 300	6	7	7
301 - 400	6	8	8
401 - 500	6	9	9
501 - 1,000	10	2 % of total	2 % of total
1001 and over	n/a	20, plus 1 for each 100 over 1000	20, plus 1 for each 100, or fraction thereof, over 1000
1,001 - 2,000	15		
2,001 - 5,000	20		
> 5,001	30		

The 2010 Standards also modified the number of van accessible spaces necessary in parking areas used by the public. While the 1991 ADAAG mandated that one (1) out of every eight (8) accessible parking spaces be van accessible, the 2010 Standards require that one (1) out of every six (6) accessible spaces be van accessible.

All accessible spaces must be as near as possible to the building entrance or walkway and adjacent to a curb ramp permitting sidewalk access. The spaces must have above grade signs which bear the words “Handicapped Parking:

² [28 C.F.R. Pt. 36, 2010 ADA Standards for Accessible Design, §208.2.](#) Section 35.151(c) makes the 2010 Standards fully effective on March 15, 2012. In the interim, see the standards for available choices.

Special Plate Required Unauthorized Vehicles May Be Removed at Owner's Expense”.

Note: In the table above, the most stringent standard is the one that must be followed to determine the number of accessible parking spaces needed. Therefore, in instances where federal law (the ADAAG) mandates a more stringent standard than Massachusetts law (the AAB), the ADAAG guidelines must be followed. With regard to van accessible spaces, any parking area used by the public and striped (or re-striped) after March 15, 2012, must follow the 2010 Standards.

Additionally, be aware that the crosshatched areas between designated spaces are not extra parking spaces. These crosshatched areas, sometimes also referred to as “access aisles”, allow sufficient space for wheelchair lifts and other mobility devices to be used when entering and leaving a vehicle. No one may park in the crosshatch areas.

2. Parking Meter Fees

G.L. c. 40 § 22A: In cities and towns that have parking meters, people who have an HP plate or display an HP placard are exempt from paying parking meter fees. However, this exemption only applies to meters, **not** any other type of pay to park system.

3. Over Time Parking Limits

G.L. c. 40 §22: People who have an HP plate or display an HP placard are exempt from the time limits on a parking space, such as 15 minutes or 1 hour only, etc. However, this does not exempt plate or placard users from fines or towing when “No Parking” restrictions are in effect, such as snow emergencies, and overnight parking bans.

4. Reserved Spaces and Towing

G.L. c. 40 §22D: A municipality may further regulate

parking by restricting certain on-street areas for vehicles bearing HP plates or placards. People who park blocking curb cuts or handicapped parking spaces can be towed.

Enforcement: Fines for parking in a handicapped parking space without a plate or placard range from one hundred dollars (\$100) to three hundred dollars (\$300). The municipality determines the exact amount. Also, violators may be towed. Enforcement is by the local police or traffic department.

Website: <http://www.mass.gov/cc> for individual city and town information.

Massachusetts Handicapped Plate and Placard Law

G.L. c. 90, § 2

HP plates and placards are issued through the Registry of Motor Vehicles to eligible people with disabilities. As discussed under the parking laws above, they entitle holders:

- to park in designated HP spaces,
- to park longer than usual time limits,
- to park at parking meters free of charge, and
- to make use of the gas station law.

The rights, responsibilities and privileges of plate holders and placard holders are the same. The Registry's Bureau of Medical Affairs determines eligibility according to physician's documentation. Only people who meet the disability definition and who are the registered owner of the vehicle and who are licensed drivers may receive plates. Anyone who meets the disability eligibility requirements can get a placard. Individuals who meet the disability eligibility requirements for both plates and placards can choose either a plate or a placard. The only practical difference between them is that a plate is permanently attached to one car, while a placard is a card that can easily be moved from one car to another. The Massachusetts Registry of Motor Vehicles also issues temporary placards in some circumstances.

The law allows eligible individuals to obtain both a placard and a plate. An individual who uses an HP placard without proper authorization is the individual who will be penalized, as opposed to the individual with a disability to whom the placard was issued.

A placard may be utilized for parking in association with the transportation of the authorized user of the placard. A driver

picking up or dropping off the authorized placard user, however, may not idle in an accessible parking space for more than ten minutes. The law allows workers with disabilities to use their placard when driving a commercial vehicle, but preserves the time limitations for the utilization of commercial spaces.

Note: Commercial vehicles do not include “livery” vehicles (i.e. limousines). Therefore, livery drivers and passengers with disabilities are prohibited from using an HP plate/placard on a livery vehicle.

The fines for unauthorized utilization of an HP placard are five hundred dollars (\$500) for the first offense and one thousand dollars (\$1,000) for subsequent offenses. License suspension for violation of this law run from 30 Days for a first offense to one year for a third or subsequent offense. The fines and penalties in this section are in addition to those specified in Section 37E of Chapter 266 for the fraudulent use of another's identity. If a plate or placard user voluntarily allows someone else to use his or her placard or plate, it can result in revocation of the placard or plate.

Also, [Chapter 90 Section 24B, ¶1](#) provides that:

Whoever falsely makes, steals, alters, forges or counterfeits or procures or assists another to falsely make, steal, alter, forge or counterfeit ... a special parking identification disability placard, ... or whoever has in his possession, or utters, publishes as true or in any way makes use of a falsely made, stolen, altered, forged or counterfeited ... special parking identification disability placard ... shall be punished by a fine of not more than five hundred dollars or by imprisonment in the state prison for not more than five years or in jail or house of correction for not more than two years.

Applications for plates and placards are available at the [Registry of Motor Vehicles Offices](#) or by contacting:
Massachusetts Registry of Motor Vehicles, Medical Affairs,
P.O. Box 55889, Boston, MA 02205-5889
(617) 351-9222 (Voice) / (877) 768-8833 (TTY)

Hand Deliveries to:

Massachusetts Registry of Motor Vehicles
25 Newport Avenue Extension, Quincy, MA 02171

Website: <http://www.mass.gov/rmv/medical>

Massachusetts White Cane Law

[GL c. 90 § 14A](#)

Whenever a blind pedestrian, guided by a guide dog or carrying a raised or extended cane that is white or white tipped with red, attempts to cross a street, drivers must stop for the dog or cane user. A person who owns an animal shall restrain and control such animal on a leash when in proximity to a guide dog that is on a public or private way. Violations of this law are punishable by a criminal fine of not less than one hundred and no more than five hundred dollars.

Enforcement: State and local police enforce the White Cane Law.

Website for Municipalities: <http://www.mass.gov/cc>

DISABILITY COMMISSIONS

Massachusetts Disability Commissions

[G.L. c. 40, § 8J](#)

A city or town, which accepts the provisions of this Section, is authorized to establish a Disability Commission. Commissions work with the Office on Disability to carry out programs and activities designed to integrate people with disabilities into the community. The specific activities of a Commission depend on the needs of the disabled community in the particular city or town.

Commissions consist of five to nine members, and are appointed by the mayor or city manager in cities or by the selectmen or town manager in towns. The majority of members must be disabled, and one must be an immediate family member of a disabled person. One member of the Commission must be an elected or appointed official of the city or town. Members are initially appointed in staggered one, two and three year terms.

A Commission must have at least six meetings per year, keep records of its meetings and actions, and file an annual report. Commissions generally are authorized to receive gifts and other funds.

Administration of Handicapped Parking Program

[G.L. c. 40, § 22G](#)

For the benefit of persons with disabilities, cities and towns which have chosen to implement a Handicapped Parking Program may empower their Disability Commission to receive

and administer fines from violations of the Handicapped Parking Law.

Funds collected pursuant to this law must be kept in a separate account by the municipality's treasurer and shall be used solely for the benefit of persons with disabilities. Expenditures of money collected from the Handicapped Parking Program, including accrued interest, if any, should be approved in accordance with the accepted procedures of the municipality for the disbursement of funds.

For more information, contact the Massachusetts Office on Disability.

Website: <http://mass.gov/mod/MunicipalCommissionList.html>

EDUCATION

Massachusetts Fair Educational Practices Law

G.L. c. 151C

Very limited protections are available in the area of education. Specifically, for “educational institutions,” it is illegal to exclude from admission any student because the student is blind or deaf or requires the use of a guide dog. Educational institutions are defined as:

any institution for instruction or training, including but not limited to secretarial schools, business schools, academies, colleges, universities, primary and secondary schools, which accept applications for admission from the public generally and which is not in its nature distinctly private ...

GL c. 151C §1(d)

For “vocational schools,” disability is not mentioned as a protected classification. Vocational schools are defined as:

... any educational institution the primary purpose of which is to offer technical, agricultural, business or trade courses or courses of study leading to employment in recognized trades or occupations.

G.L. c. 151C §1(d)

Enforcement: Complaints must be filed within six months of the alleged discrimination with:

Massachusetts Commission Against Discrimination:
1 Ashburton Pl. #601, Boston, MA 02108
(617) 994-6000

Website: <http://www.mass.gov/mcad>

Massachusetts Early Childhood Intervention Law

G.L. c. 111G

Under this law, the Department of Public Health (DPH) is responsible for the implementation and administration of early intervention services. Early intervention services are provided to children and the families of children who are between birth and three years of age and who have identified disabling conditions or who are at risk for developmental delays due to biological or environmental factors. Services focus on the family and include speech, occupational and physical therapy, social work, psychological, and nursing care. DPH must provide transportation whenever transportation to early intervention services is required.

Under this law, DPH is the lead agency for the coordination of all governmental funding for the provision of early intervention services, both state and federal. DPH is also responsible for administration of an advisory committee, which monitors and assesses the effectiveness of the administration of early intervention services.

Enforcement:

Department of Public Health
Bureau of Family Health & Nutrition
250 Washington Street, 5th Floor
Boston, MA 02108

(617) 624-6060 (Voice) / (617) 624-5992 (TTY)

Website: <http://www.mass.gov/dph> and follow the Bureaus and Programs link.

Federal Individuals with Disabilities Education Act

20 U.S.C. § 1400, et seq.

This federal law, modeled after the Massachusetts law Chapter 766, requires public schools to make available to all eligible children with disabilities a free and appropriate public education in the least restrictive environment appropriate to their individual needs. Any child who qualifies for special education services will receive services following an evaluation and the development of an Individualized Education Plan (IEP). A team of interested parties, which can include such people as educators, parents, physicians and advocates, develops the IEP.

Enforcement: If an agreement cannot be reached concerning a student's IEP or if the agreed upon plan is not being implemented, contact:

U.S. Department of Education
Office for Special Education and Rehabilitation Services
400 Maryland Ave., SW
Washington, DC 20202-7100
(800) 872-5327 or (202) 245-7100

Website: <http://www.ed.gov/about/offices/list/osers>

Massachusetts Public Education Law, Ch. 766³

G.L. c. 71B, §§ 1 - 14

This state law guarantees a "free and appropriate public education in the least restrictive environment" to all school-aged children (ages 3 to 22) regardless of disability. Any child who qualifies for special education services will receive

³ Although commonly referred to as "Ch. 766", this law is actually codified as Chapter 71B in the Massachusetts General Laws

services specified in an Individualized Education Plan (IEP). A team of interested parties, including educators, parents, physicians and advocates, develops the plan.

The law also mandates support for children with disabilities who may be bullied, providing that:

Whenever the evaluation of the Individualized Education Program team indicates that the child has a disability that affects social skills development or that the child is vulnerable to bullying, harassment or teasing because of the child's disability, the Individualized Education Program shall address the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing. (See: [Chapter 92 of the Acts of 2010, §7 \(5/3/2010\)](#))

Enforcement: If an agreement cannot be reached concerning a student's IEP or if the agreed upon plan is not being implemented, the Department of Education should be contacted.

Mass Department of Elementary and Secondary Education - Program Quality Assurance Unit
75 Pleasant Street, Malden, MA 02148-4906
(781) 338-3000 (Voice) / (800) 439-2370 (TTY)
Website: <http://www.doe.mass.edu>

Massachusetts Braille Literacy Laws

[G.L. c. 6, § 133G](#)

Legally blind adults are afforded the right to learn Braille through the Massachusetts Commission for the Blind (MCB). MCB is required to offer instruction up to the grade two Braille

level.⁴ Additionally, the vocational rehabilitation and independent living programs provided by MCB must evaluate the appropriateness of Braille instruction for each participant in the program. The assessment shall include: (i) the person's efficiency in reading and writing print as compared with a person of similar intellectual ability; (ii) the person's stamina in using print before fatigue occurs; and (iii) the person's prognosis for further sight loss.

G.L. c. 71B, § 3

School-age children deemed legally blind⁵ are entitled to receive Braille instruction as part of their school's special education services. As part of the broader special education evaluation conducted for children with disabilities, the school district must also assess the appropriateness of Braille instruction for the child. Such assessment shall include (i) the child's efficiency in reading and writing print as compared with children who do not have a disability; (ii) the child's stamina in using print before fatigue occurs; (iii) the child's prognosis for further sight loss; and (iv) the child's present competence in Braille and a detailed explanation as to whether instruction is appropriate. The evaluation must be conducted by a certified teacher of students with visual impairments. If the evaluation determines that Braille instruction is appropriate, it must be offered at a frequency and duration sufficient to meet fully the educational needs of the child.

For further information contact:

⁴ For purposes of this law, "grade two Braille" shall mean a system of Braille used by the Library of Congress for the production of Braille materials, in which short forms and contractions of words or groups of words are used regularly.

⁵ G.L. c. 6, § 136 defines blindness as: Visual acuity with correction of 20/200 or less in the better eye, or the peripheral field of vision to have contracted to the ten degrees radius or less regardless of visual acuity.

Mass. Commission for the Blind, 600 Washington Street,
Boston, MA 02111, (617) 727-5550 & (800) 392-6450
(Voice), FAX (617) 626-7685; (800) 392-6556 (TTY)
Website: <http://www.mass.gov/mcb>

Federal Rehabilitation Act: Entities Receiving Federal Funds, §504

[29 U.S.C. § 794, et seq.](#)

This law prohibits discrimination against people with disabilities under any program or activity receiving or benefiting from federal financial assistance, which often includes educational entities. For more information, see the Public Places and Parking Section of this book.

Massachusetts Transitional Planning Services, Turning 22 (Commonly Known as Chapter 688)

[G.L. c. 71 B, §§ 12A - C](#)

This law provides a transitional planning process for eligible people with disabilities who will lose special education services upon graduation or upon turning 22. An assigned agency develops an Individual Transitional Plan describing the services needed. The Individual Transitional Plan must be agreed upon by the Department of Education, the Executive Office of Health and Human Services, and the person with disabilities or their guardian(s). The Bureau of Transitional Planning within the Department of Education monitors all Chapter 688 cases.

Enforcement: Questions and complaints are sent to:
Bureau of Transitional Planning
Executive Office of Health & Human Services

One Ashburton Place, Room 1109, Boston, MA 02108
(617) 573-1600; **Website:**
<http://www.doe.mass.edu/sped/links/transition.html>

EMPLOYMENT

Americans with Disabilities Act Title I: Employment

[42 U.S.C. § 12111, et seq.](#)

The law prohibits employers from firing, refusing to hire or rehire, or otherwise discriminating, against a “qualified” person with a disability on the basis of disability. To be “qualified”, a person must be able to perform the essential functions of the job, either with or without a reasonable accommodation. Examples of work-place reasonable accommodations that may be appropriate include: a flexible work schedule, providing a reader, providing ergonomic or technological equipment, or transfer to an office in an accessible location. Employers are not required to provide an accommodation that would eliminate an essential function of an employee’s job or would pose an “undue hardship” for the employer. An accommodation is provided at the employer’s expense, unless the employer can demonstrate that it would pose an undue financial hardship. The law applies to employers with 15 or more employees.

This law was substantially revised by [the Americans with Disabilities Act Amendments Act \(ADAAA\)](#) of 2008. In enacting the ADAAA, Congress overturned several Supreme Court decisions that Congress believed had interpreted the definition of “disability” too narrowly, resulting in a denial of protection for many individuals with impairments such as cancer, diabetes, and epilepsy. The ADAAA states that the definition of disability should be interpreted in favor of broad coverage of individuals. The determination of whether an impairment substantially limits a major life activity requires an individualized 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, Additionally, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.⁶

Please be sure to review Massachusetts Employment Discrimination Law, which applies to employers with 6 or more employees. Also please consult Sections 501 and 504 of the Federal Rehabilitation Act and Massachusetts Executive Order 526.

Enforcement:

Equal Employment Opportunity Commission
JFK Building, Rm. 475, Boston, MA 02203-0506
(800) 669-4000 (Voice) (800) 669-6820 (TTY)
(617) 565-3196 (Fax)

Website: <http://www.eeoc.gov>

Employment & the Federal Government

Direct-Employment by the Federal Government: [29 U.S.C. § 791, et seq.](#)

Section 501 of the Federal Rehabilitation Act governs direct-employment by the federal government. This section of the law prohibits discrimination and requires adoption of affirmative action plans for hiring, placement, and advancement of individuals with disabilities within federal agencies and the U.S. Postal Service.

Enforcement: Complaints may be filed with the agency's Equal Employment Opportunity Counselor for informal review and resolution. If the matter is not

⁶ [Information about the Americans with Disabilities Act Amendments Act \(ADAAA\)](#) and its implementing regulations are available on the U.S. Equal Employment Opportunity Commission website: http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm

resolved satisfactorily within 21 days, a formal complaint may be filed with the agency head, the Director of Equal Employment Opportunity, an Equal Opportunity Officer, or other designated official.

Employment by Federal Contractors:

[29 U.S.C. §793](#)

Section 503 of the Federal Rehabilitation Act prohibits discrimination based on disability and requires affirmative action in hiring persons with disabilities when the employer has a contract or subcontract with the federal government in excess of \$10,000.

Enforcement:

The 503 regulations are written and enforced by the Department of Labor.

Complaints go to:

U.S. Department of Labor

Office of Federal Contract Compliance Programs

J.F.K. Building, Room E-235

Boston, MA 02203

(617) 624-6780 (Voice) / (877) 889-5627 (TTY)

Website: <http://www.dol.gov/ofccp/>

Massachusetts Employment Discrimination Law

[G.L. c. 151B, 4, ¶ 16](#)

This law prohibits any employer in Massachusetts who employs six or more people from firing, refusing to hire or rehire, or otherwise discriminating against a qualified disabled person based on disability. A “qualified” disabled person must be able to perform the essential functions of the job, either with or without a reasonable accommodation. Examples of work-place reasonable accommodations that may be

appropriate include: a flexible work schedule, providing a reader, providing ergonomic or technological equipment, or transfer to an office in an accessible location.

Employers are not required to provide an accommodation that would remove an essential function of an employee's job or would pose an "undue hardship" for the employer. An accommodation is provided at the employer's expense, unless the employer can demonstrate that it would pose an undue financial hardship.

Enforcement: The Massachusetts Commission Against Discrimination (MCAD) enforces the statute. A complaint must be filed at an MCAD office within 300 days of the discriminatory act:

1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000

Website: <http://www.mass.gov/mcad>

EQUAL RIGHTS

Americans with Disabilities Act

[42 U.S.C. § 12101, et seq.](#)

The Americans with Disabilities Act (ADA) provides a comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The individual parts of the law are discussed in the corresponding subject matter sections of this booklet. Specifically, in the following areas:

- Architectural Access, see page 8,
- Employment, Title I, see page 32,
- State and local government, Title IIA, see page 50,
- Transportation, Title IIB, see page 12,
- Public accommodations, Title III, see page 51, and
- Telecommunications Title IV, see page 61.

The particular parts of the law became effective on various dates during the early 1990's.

Federal Rehabilitation Act

[29 U.S.C. § 791, et seq.](#)

In 1973, Congress passed the Rehabilitation Act in a national effort to end discrimination based on disability by agencies and organizations which receive or benefit from federal financial assistance. The five major components to the Rehabilitation Act of 1973, as amended, are:

- Section 501 – Employment by the Federal Government, see page 33,
- Section 502 – Architectural and Transportation Barriers Compliance, see page 10,
- Section 503 – Employment by Federal Contractors, see page 34,
- Section 504 – Entities Receiving Federal Funds, see page 52, *and*
- Section 508 – Access to Technology, see page 62.

Section 505 contains complaint procedures and remedies available to a complainant under 501 and 504. Among other remedies, it allows a court to award reasonable attorney's fees to a plaintiff who prevails in a discrimination case.

Massachusetts Constitutional Amendment

Article 114

The Massachusetts Constitution states:

“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.”

Article 114 is written broadly. It prohibits discrimination based on disability on any level within the state, not just for recipients of state or federal funds. For example, town meetings must be held in an accessible place with sign language interpreters provided if needed, and a small grocery store or a privately owned dinner theater cannot refuse to do business with an individual based on the person's disability.

Enforcement: Enforcement of this Amendment is through the courts. However, we have not seen its full impact because it has not been fully tested in the courts. If you

feel your rights have been violated under Article 114, contact the Massachusetts Office on Disability. If a resolution cannot be reached, MOD will help you file a complaint with the Civil Rights Division of the Office of the Attorney General.

(617) 727-2200 (Voice) / (617) 727-4765 (TTY)

Website: <http://www.mass.gov/ago>

Massachusetts Equal Rights Law

[G.L. c. 93 § 103](#)

Implementing Article 114 to the Massachusetts Constitution, the equal rights law guarantees persons with disabilities (with reasonable accommodation) the same rights as other persons, such as the rights to contract, to inherit, to purchase, to lease, to sell, to participate in law suits and to receive the full benefit of the law.

Enforcement: Complaints of violation of the equal rights law are made by filing a law suit in the superior court. Individuals who win their complaints are entitled to reimbursement for their reasonable attorney fees.

Massachusetts Executive Order 526

[EO 526](#)

Executive Order 526 prohibits discrimination and mandates affirmative action to ensure equal opportunity for people with disabilities by the Executive Department of the Commonwealth. The requirements of this Order apply to State executive agencies' internal policies and practices, such as

employment and the granting of licenses, and apply as well to recipients of state funding, including contract and grant recipients. Each agency under an executive office must create an affirmative action plan, which includes goals and methodology for the placement of people with disabilities in the state's work force. All state employment, services and facilities should be accessible and non-discriminatory based on disability. Some examples of programs and activities that must comply with EO 526 include: employment and training services, health care facilities licensed or chartered by the state, private educational institutions licensed or chartered by the state and those which receive state assistance or participate in state programs, or a person, corporation, or business which is licensed or chartered by the state.

Enforcement: Responsibilities for carrying out the requirements of Executive Order 526 are divided among three different agencies: Office of Diversity and Equal Opportunity (ODEO), the Massachusetts Commission Against Discrimination (MCAD) and the Massachusetts Office on Disability (MOD). Employment related complaints under EO 526 should be addressed to:

Office of Diversity and Equal Opportunity
One Ashburton Place, #213
Boston, MA 02108
(617) 727-7441 (Voice), (617) 727-6015 (TTY)

Website: <http://www.mass.gov/hrd>

Or

Massachusetts Commission Against Discrimination
1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000

Website: <http://www.mass.gov/mcad>

All other disability related complaints about Executive Branch agencies should be directed to the ADA/504 Coordinator for the agency. A list of coordinators is available on the MOD website: <http://www.mass.gov/mod>

HATE CRIMES

Several Massachusetts laws address actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by disability based prejudice. It includes acts that deprive another person of his constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation. These are generally referred to as "hate crimes." [G.L. c. 22C, § 32](#).

Violations of Constitutional Rights; Criminal Penalties

[G.L. c. 265 § 37](#)

Massachusetts law makes the following a crime:

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States.

Any person convicted of violating this provision may be fined up to one thousand dollars or imprisoned not more than one year or both. If bodily injury results, the punishment may be increased to a fine of up to ten thousand dollars or by imprisonment for up to ten years, or both.

Assault or Battery Re: Intimidation; Weapons

G.L. c. 265 § 39

- (a) An assault ^[7] or a battery ^[8] upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's disability is a crime. Punishable by a fine of up to five thousand dollars or by imprisonment in a house of correction for up to two and one-half years, or by both, a court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owner.
- (b) A battery in violation of this section and which results in serious bodily injury is punishable by a fine of up to ten thousand dollars or by imprisonment in the state prison for up to five years, or by both. If the offender is armed with a firearm, rifle, shotgun, machine gun or assault weapon, punishment may be increased to imprisonment in the state prison for up to ten years or in the house of correction for not more than two and one-half years. There is also a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section. The surcharge goes to the Diversity Awareness Education Trust Fund. In the case of convictions for multiple offenses, the surcharge is assessed for each conviction.

⁷ Words or actions that cause a person to fear for his or her safety.

⁸ Actual touching

A person convicted of a battery under (b) section must also complete a diversity awareness program designed by the secretary of the Executive Office of Public Safety in consultation with the Massachusetts Commission Against Discrimination and approved by the Chief Justice for Administration and Management of the Trial Court. The program must be completed prior to release from incarceration or prior to completion of the terms of probation, whichever applies.

Civil Actions by Attorney General to Enforce Constitutional and Legal Rights

G.L c.12, § 11H

The attorney general may bring a civil law suit to protect the peaceable exercise or enjoyment of the right or rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the Commonwealth. This type of law suit is filed in Superior Court and must be based on evidence that a person or persons attempted to or actually interfered by threats, intimidation or coercion, with the exercise or enjoyment of civil rights by any other person or persons.

Enforcement:

Department of the Attorney General

Civil Rights Division

100 Cambridge Street

Boston, MA 02114

(617) 727-2200 (Voice) / (617) 727-4765 (TTY)

Website: <http://www.ago.state.ma.us>

Civil Damages For Civil Rights Violations

[G.L. 266, § 127B](#)

Any person incurring injury to his person or damage or loss to his property as a result of conduct in violation of section 39 of chapter 265, above, is entitled to file a civil law suit to ask the court to stop the violations and to obtain special and general damages, reasonable attorney fees and costs against the person whose conduct has violated section 39. Parents and legal guardians of un-emancipated minor children are liable for any judgment rendered against such minor under the provisions of this section.

Enforcement:

Individuals may file private lawsuits.

HOUSING

Federal Fair Housing Act

42 U.S.C. §§ [3535](#) & [3601-3620](#)

The Act extends civil rights protection to individuals with disabilities by prohibiting discrimination in the sale, rental or conditions of occupancy of a dwelling because of a person's disability. Owner-occupied dwellings of four or fewer units are exempt from this requirement. It is also unlawful to refuse to allow a person with a disability to make reasonable modifications at his/her expense to allow full use of the premises, unless the property owner can demonstrate that the accommodation would create an "undue hardship" for the owner. Tenants may be required to remove modifications and return the unit to the original condition upon moving. All new multi-family units, rental units and condominiums, in complexes of four or more units, available for first occupancy after March 13, 1991, have to be "adaptable." Adaptable units include features such as wide doorways, low outlets, reinforcements in walls for grab bars, useable bathrooms and kitchens, if there is an elevator in the building. If there is no elevator, only the ground floor units must be adaptable. All public and common areas have to be accessible.

Enforcement:

Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
O'Neil Building, 10 Causeway Street, 3rd Floor
Boston, MA 02222

(617) 994-8200 (Voice) (617) 565-5453 (TTY)

(800) 955-2232 (Voice) - Toll Free

(617) 565-6558 (FAX)

Website: <http://www.hud.gov/offices/fheo>

Massachusetts Housing Bill of Rights

G.L. c. 151B §4

This law largely mirrors the protections of the federal law. However, unlike federal law, it limits the owner occupied exemption to two-family units. It is illegal for a landlord to ask about a person's disability, except to ask about qualifications for a special type of unit ("Do you have a condition that qualifies you for a wheelchair accessible unit?"). Only medical opinions that address qualifications for a particular unit may be sought ("Does Jane Doe have a condition that qualifies her for a unit for people with mental retardation?"). If there are 3 or more units, reasonable modifications must be made to rules or policies if these modifications are needed for a person with a disability to use or enjoy the premises, unless the property owner can demonstrate that the modification would create an "undue hardship" for the owner. A person with a disability may make reasonable modifications to the premises at his/her own expense.

In publicly assisted housing, or housing with 10 or more units, the landlord is responsible for paying for reasonable modifications unless doing so would impose an "undue hardship." The law also requires that new construction of housing with 3 or more units ready for first occupancy after March 13, 1991 be adaptable consistent with AAB regulations. The Massachusetts Rehabilitation Commission administers a central registry to match accessible and adaptable housing units with persons who need them. Local Independent Living Centers can provide access to the Registry. Access the internet at: <http://www.massaccesshousingregistry.org/>

Enforcement:

Massachusetts Commission Against Discrimination
1 Ashburton Pl. #601
Boston, MA 02108

(617) 994-6000 (Voice); (617) 994-6196 (TTY)

Website: <http://www.mass.gov/mcad>

Federal Pet Law

[12 U.S.C. §1701 r-l](#); [24 C.F.R. §5.300, et seq.](#)

This law allows persons with disabilities and persons who are elderly living in federally assisted non-family rental housing to own or keep common household pets (dogs, cats, birds, rabbits, fish or turtles).

Enforcement:

Department of Housing and Urban Development

Office of Fair Housing and Equal Opportunity

10 Causeway Street, 3rd Floor

Boston, MA 02222

617) 994-8200 (Voice) (617) 565-5453 (TTY)

(800) 955-2232 (Voice) - Toll Free

(617) 565-6558 (FAX)

Website: <http://www.hud.gov/offices/fheo>

Guide Dogs and Hearing Dogs In Housing

[G.L. c. 151B, §4, ¶6 \(b\)](#)

Refusal to sell or rent housing because an individual uses a guide dog for the blind or a hearing assistance dog is specifically prohibited. General federal and Massachusetts anti-discrimination law, discussed above, will apply to others with services animals.

Enforcement:

Massachusetts Commission Against Discrimination

1 Ashburton Pl. #601

Boston, MA 02108

(617) 994-6000 (Voice); (617) 994-6196 (TTY)

Website: <http://www.mass.gov/mcad>

Massachusetts Property Tax Exemptions

[G.L. c. 59, § 5](#)

Clause 37 provides an exemption of \$437.50 of property taxes to legally blind persons who own and occupy their own property. Applications must be made annually. The Commonwealth will reimburse the municipality \$87.50 for each exemption. Clause 37A increases the exemption to \$500, but is a local option. A vote of Town Meeting (towns) or City Council (cities) must adopt it. Clauses 22, 22A, 22B, 22C and 22E apply to veterans with varying levels of disability (the greater the disability, the larger the exemption).

For more information contact:

Massachusetts Department of Revenue
Local Services, Real Estate Taxes, P.O. Box 9569
Boston, MA 02114-9569

(617) 626-2300 and (800) 521-5536 (Voice)

Website: <http://www.mass.gov/dor>

Note: This is the only disability-specific, state-wide tax exemption. You may wish to check with your local city or town, however, to see if it offers an exemption or abatement program for individuals with disabilities.

Massachusetts Homestead Protection Act

G.L. c. 188, §1A

With some exception, the real property or manufactured home of a person with a disability can be protected against attachment, seizure or execution of a court judgment up to a value of \$500,000. The owner must occupy, or intend to occupy, the real property or manufactured home as his or her principal residence, and he or she must file a disabled person's declaration of homestead protection, along with proof of disability.

For further information: contact either the city or town clerk or the Massachusetts Registry of Deeds for the area in which the property is located.

Website: <http://www.sec.state.ma.us/rod/rodhom/homidx.htm>

PUBLIC PLACES & PROGRAMS

Americans with Disabilities Act

State and Local Government, Title IIA

[42 U.S.C. § 12131, et seq.](#)

Effective January 26, 1992, state, local and municipal governments must provide equal opportunity for persons with disabilities in programs, activities, services and employment practices. People using service animals must be allowed equal access. Effective communication must be ensured with persons who are deaf, hard of hearing and blind or who have cognitive disabilities through provision of auxiliary aids and services. Remedying actions might include the provision of sign language interpreters, the distribution of material in large print, braille or audio tape, holding meetings and hearings in accessible locations and ending discriminatory hiring practices. Under a concept called “programmatically access,” every part of every facility need not necessarily be accessible. Instead, the programs, activities and services when viewed in their entirety must be readily accessible to and useable by persons with disabilities.

Enforcement:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section - NYA
Washington, D.C. 20530
(202) 514-0301 or (800) 514-0301 (Voice)
(800) 514-0383 (TTY)

Website: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Individuals may also file private lawsuits.

Public Accommodations, Title III **[42 U.S.C. § 12181, et seq.](#)**

Public accommodations such as restaurants, retail stores, parks, day care centers and homeless shelters, may not discriminate based on disability.

A place of public accommodation must make reasonable modifications to its policies, practices and procedures, to enable a person with a disability full and equal access to all of the activities, programs and services offered, unless the modifications would fundamentally alter the nature of the goods or services, or cause an “undue burden”⁹. Such modifications must include waiving any “no animals” policy to allow guide dogs and service animals to accompany their owner with a disability. Physical barriers in existing facilities must be removed if readily achievable (easily accomplishable and able to be carried out without much difficulty or expense). If not, alternative readily achievable methods of providing services must be offered. Auxiliary aids and services must be provided to individuals with vision or hearing impairments, unless an undue burden would result.

Enforcement: Complaints must be filed within 180 days of the alleged discriminatory act.

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section - NYA
Washington, D.C. 20530
(202) 514-0301 or (800) 514-0301 (Voice)
(800) 514-0383 (TTY)

Website: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Individuals may also file a private lawsuit

⁹ Undue burden means significant difficulty or expense. For more information: <http://www.ada.gov/reachingout/12factors.html>

Entities Receiving Federal Funds

[29 U.S.C. § 794, et seq.](#)

Section 504 of the Federal Rehabilitation Act prohibits discrimination against people with disabilities under any program or activity receiving or benefiting from federal financial assistance. It states that:

"No otherwise qualified handicapped individual in the United States ... shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Organizations, such as colleges, public schools, libraries, hospitals, or cultural programs, which receive or benefit from federal financial funds, must provide equal opportunity for people with disabilities in their programs and activities. Remedying actions might include the provision of sign language interpreters, the distribution of material in large print or braille or moving a class to a physically accessible location. Every part of every building need not necessarily be accessible, but the program, when viewed in its entirety must not discriminate against or segregate persons with disabilities. Some examples of compliance with Section 504 may include:

- A hospital that receives Medicaid money must provide a qualified interpreter to someone who is deaf when communication is necessary. A hospital also must provide the use of a TTY¹⁰ (telephone communication device for

¹⁰ This device is sometimes referred to as a TDD.

the deaf) to a deaf person who requires one to communicate on the telephone.

- A school or college that receives federal financial assistance cannot decline an application based on a person's disability. All programs and classes must be made available. For example, a class must be moved to an accessible location on campus if a person with a mobility impairment wants to attend, a qualified interpreter must be provided if one is needed for a deaf person to understand the instructor. Accommodations, such things as a note taker, large print books, books on tape, extended time to take tests or complete assignments may be requested and must be provided unless doing so would either fundamentally alter the nature of the goods or services, or cause an "undue burden".
- If a museum that receives federal funds conducts an arts program in an inaccessible location, the museum must make sure the same program is offered in an accessible place **if requested**.

Enforcement: Federal agencies, such as the Department of Education and the Department of Housing and Urban Development, have developed regulations under Section 504. Each federal agency providing the financial assistance is responsible for establishing an enforcement procedure. Some of the larger department contacts are:

U.S. Department of Education, Office of Civil Rights
33 Arch Street, Suite 900,
Boston, MA 02110-1491
(617) 289-0111 (Voice) / (877) 521-2172 (TTY)

Or

U.S. Department of Health and Human Services
Office of Civil Rights
JFK Federal Building, Room 1875

Boston, MA 02203
(617) 565-1340 (Voice) / (800) 537-7697 (TTY)

Or

U.S. Department of Housing and Urban Development
Office of Fair Housing
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 321
Boston, MA 02222-1092
(617) 994-8300 (Voice) / (617) 565-5453 (TTY)

To find out which other agency would handle a particular type of complaint, contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
(800) 514-0301 (Voice) or (800) 514-0383 (TTY)
Website: www.ada.gov

It may also be enforced through private law suits.

Massachusetts Public Accommodations Law

G.L. c. 272, §§ 92A and 98

Discrimination in places of public accommodation based on disability is prohibited. A public accommodation is defined as any place, which is open to and accepts the general public. The law prohibits discrimination not only in terms of building access but also in terms of the programs or services offered. For example, a bank cannot refuse to grant a loan to someone based on his/her disability and a restaurant cannot exclude a person because they have a disability. This law also prohibits discrimination against any person with a disability who uses a service or guide dog. At one time, this law allowed operators of public accommodations to require that a guide or service animal be muzzled and to demand special identification of service animals. As these provisions violated the Americans with Disabilities Act, they were repealed.

Enforcement: A complaint must be filed within 300 days of the alleged act at the

Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601

Boston, MA 02108

(617) 994-6000

Website: <http://www.mass.gov/mcad>

Sign Language Interpreters In Court

G.L. c. 221, § 92A

When a deaf or hearing impaired person is a party or a witness, this state law entitles the person to have a qualified interpreter in any court proceeding, juvenile proceeding, or

proceeding before an executive or legislative board, commission, agency, or any other body of the state or its political subdivisions. This law also entitles a deaf or hearing impaired person to have an interpreter during any proceeding that follows an arrest such as notification of rights, warnings, interrogation, or taking of a statement. The interpreter must be approved by the Massachusetts Commission for the Deaf and Hard of Hearing.

For More Information: To hire an interpreter or for more information on the law contact:

MA Commission for the Deaf & Hard of Hearing
600 Washington Street, Boston, MA 02111
[617] 740-1600 (Voice), [617] 740-1700 (TTY)
[800] 882-1155 (Voice), [800] 530-7570 (TTY)
Website: <http://www.mass.gov/mcdhh>

SERVICE ANIMALS

Massachusetts Service Animal Law

G.L. c. 272, §§ 92A and 98A

Any person with a disability accompanied by a dog guide or service animal is entitled to any and all accommodations, advantages, facilities and privileges of all public conveyances, public amusements and places of public accommodation, within the Commonwealth, to which others not accompanied by dogs are entitled, subject only to the conditions and limitations applicable to all persons not accompanied by dogs. People training service animals are also protected. No service animal user may be required to pay any charge or fare for the service animal in addition to those lawfully chargeable for the user's own travel.

Enforcement: Violation of this law is punishable by a fine of not more than three hundred dollars, and the service animal user is entitled to damages. Complaints must be filed within 300 Days at

Massachusetts Commission Against Discrimination
1 Ashburton Pl. #601
Boston, MA 02108
(617) 994-6000

Website: <http://www.mass.gov/mcad>

See also [Public Places and Programs](#) and [Housing](#)

Service Animal and Training Laws

There are four laws in Massachusetts that directly address service animal training:

- **Hearing dog business licensing - [G.L. c. 129, § 39C](#)**

People engaged in the hearing dog business must be licensed. A hearing dog shall, for identification purposes, be fitted with a collar and leash that are of a bright color.

- **Hearing Dogs - [G.L. c. 129 § 39D](#)**

A person engaged in the hearing dog business, while actually engaged in the training process and activities of hearing dogs, has the same rights, privileges and responsibilities with respect to access to public facilities as those applicable to deaf persons.

- **General - [G.L. c. 129, § 39F](#)**

A person accompanied by and engaged in the raising or training of a service dog, including a hearing, guide or assistance dog, shall have the same rights, privileges and responsibilities as those afforded to an individual with a disability under the Americans with Disabilities Act, 42 U.S.C. sections 12101 et seq.

For more information contact:

MOD at [617] 727-7440 or toll free at [800] 322-2020 (both V/TTY).

Or

MA Commission for the Deaf and Hard of Hearing
600 Washington Street, Boston, MA 02111

[617] 740-1600 (Voice), [617] 740-1700 (TTY)
[800] 882-1155 (Voice), [800] 530-7570 (TTY)
Website: <http://www.mass.gov/mcdhh>

Massachusetts Fair Educational Practices Law

[G.L. c. 151C](#)

“Educational institutions” may not exclude any student from admission because the student is blind or deaf or requires the use of a guide dog. See also [Education](#).

Enforcement: Complaints must be filed within six months of the alleged discrimination with:

Massachusetts Commission Against Discrimination
1 Ashburton Pl. #601
Boston, MA 02108s
(617) 994-6000

Website: <http://www.mass.gov/mcad>

See also [Guide Dogs And Hearing Dogs](#) under the [Housing](#) section, above.

TELECOMMUNICATION AND TECHNOLOGY

U.S. 21st Century Communications & Video Accessibility Act of 2010

[Pub.L. 111-260](#)

The goal of the legislation is to establish new safeguards for disability access to ensure that people with disabilities are not left behind as technology changes and the United States migrates to the next generation of Internet-based and digital communication technologies. Among other things, the law specifically:

- Mandates mobile phone companies to make web browsers, text messaging, and e-mail on smart phones fully accessible for individuals with vision loss.
- Restores and expands requirements for video description of television programs, in addition to requiring cable companies to make their program guides and selection menus accessible to people with vision loss.
- Provides \$10 million in funding each year for assistive technology for deaf-blind individuals.
- Ensures that Internet-enabled mobile phones are hearing aid compatible.

Enforcement:

Federal Communications Commission

445 12th Street SW

Washington, DC 20554

1-888-225-5322 (1-888-CALL FCC) Voice: toll-free

1-888-835-5322 (1-888-TELL FCC) TTY: toll-free

Website: <http://www.fcc.gov>

Federal Telecommunications Act

[47 U.S.C. § 225](#)

Originally enacted as part of the Americans with Disabilities Act, this law deals with telephone and television access for people with hearing and speech disabilities. Some examples of the requirements in this act are as follows. Companies producing televisions with screens at least 13" diagonally must be built in decoders to allow for opening of closed captions. Telephone companies must provide telecommunication Relay Services for people with hearing or speech impairments 24 hours a day, seven days a week, effective July 26, 1993. Relay Services enables callers who use telecommunication devices for the deaf (TTYs),¹¹ and those who use voice telephones to communicate with each other through a third party communication assistant. The Federal Communication Commission has set minimum standards for Relay Services. [See 47 C.F.R. §§ 6 and 7](#) for details. Federally funded television public service announcements and emergency announcements must include captioning of the verbal content. Video programming distributors under the jurisdiction of the FCC must provide captioning for the lesser of an average of 1350 hours of captioned video programming or all of its new nonexempt video programming. As of January 1, 2006, and thereafter, 100% of the programming distributor's new nonexempt video programming must be provided with captions. [See 47 C.F.R. § 79.1, et seq.](#) for details. Video description technology enables individuals to "hear what they cannot see" by providing verbal explanation of key visual elements in programming, inserted into natural pauses in the audio of programming. It is designed to make television programming more accessible to the many Americans who have visual disabilities. Under rules adopted by the FCC, broadcast stations and multi-channel video programming

¹¹ This device is sometimes referred to as a TDD.

distributors must provide programming with video description.
[47 C.F.R. § 79.3](#)

Enforcement

Federal Communication Commission
445 12th Street, SW, Washington, DC 20554
1-888-225-5322 (1-888-CALL FCC) Voice: toll-free
1-888-835-5322 (1-888-TELL FCC) TTY: toll-free
Website: <http://www.fcc.gov/cgb/dro>
Individuals may bring private lawsuits.

Access to Technology at the Federal Level

[29 U.S.C. § 794d, et seq.](#)

Section 508 of the Federal Rehabilitation Act requires federal agencies to ensure that information technology that is developed, purchased or used is accessible to people with disabilities. This includes both federal employees and members of the public.

Enforcement:

U.S. General Services Administration
Center for IT Accommodation (CITA)
1800 F Street, NW, Room 1234, MC: MKC
Washington, DC 20405-0001
(202) 501-4906
Website: <http://www.section508.gov>

U.S. Architectural and Transportation Barriers Compliance Board
1331 F Street, NW, Suite 1000
Washington, D.C. 20004-1111
(800) 872-2253 (Voice) / (800) 993-2822 (TTY)
Website: <http://www.access-board.gov/508.htm>

VOTING

Federal Voting for the Elderly and Handicapped Act

[42 U.S.C. § 1973ee, et seq.](#)

In each state, political subdivisions responsible for conducting elections must assure that all polling places for federal elections are accessible to disabled and elderly voters. In Massachusetts, the Secretary of State's Office is responsible for ensuring that polling places are accessible. The "Massachusetts Voter's Bill of Rights" also guarantees the opportunity to use an accessible voting booth if necessary.¹²

Enforcement:

Voting Section, Civil Rights Division, Room 7254 - NWB
Department of Justice
950 Pennsylvania Ave., N.W. Washington, DC 20530
(800) 253-3931 or (202) 307-2767 (Voice)
(202) 305-0082 (TTY)

Secretary of the Commonwealth - Elections Division
One Ashburton Place, Room 1705
Boston, MA 02108
(617) 727-2828 or (800) 462-VOTE (8683) (Voice)
(617) 878-3889 (TTY)

Massachusetts Secretary of State, Election Division Regulations

[950 C.M.R. §51](#)

¹² For more information on the "Massachusetts Voter's Bill of Rights", see:
http://www.sec.state.ma.us/ele/ele10/ballot_questions_10/ma_voter_rights.htm

In Massachusetts, the Elections Division of the Secretary of State's Office has written regulations that apply to site access, parking, entrances, voting equipment, etc. All municipalities are responsible for following these regulations. The position of the Secretary of State and the Massachusetts Attorney General is that all state and municipal elections must also be accessible to persons with disabilities.

Enforcement:

Secretary of the Commonwealth - Elections Division
One Ashburton Place, Room 1705
Boston, MA 02108
(617) 727-2828 or (800) 462-VOTE (8683) (Voice)
(617) 878-3889 (TTY)

If the Elections Division is unable to achieve voluntary compliance, the matter is referred to the Civil Rights Division of the Attorney General's Office. Individuals can also bring an action for declaratory or injunctive relief in the appropriate district court.

Help America Vote Act (HAVA)

[42 U.S.C. §15301, §15545](#)

The Help America Vote Act (HAVA) was signed by President Bush in October 2002 in an effort to improve voting across the country and in response to the problems that arose in the 2000 Presidential elections. This federal legislation makes changes in the election process and applies to all federal elections in the United States. The most significant areas impacted by the legislation include voting equipment standards, including accessibility, provisional voting, voter registration, and voter education.

HAVA requires that voting systems used after January 2006 be accessible to voters with disabilities, including voters with

vision impairments, in a manner that provides the same opportunity for access and participation (including privacy and independence), as is provided for other voters.

Enforcement:

Same as Federal Voting for the Elderly and Handicapped Act, above.

For more information:

Election Assistance Commission

1225 New York Ave., Suite 1100, Washington, DC 2005

(202) 566-3100 (Voice Only) / (866) 747-1471 (Voice Only)

Web site: <http://www.eac.gov>

Or

Voting Section, Civil Rights Division, Room 7254 - NWB

Department of Justice

950 Pennsylvania Ave., N.W. Washington, DC 20530

(800) 253-3931 or (202) 307-2767 (Voice)

(202) 305-0082 (TTY)

Website: <http://www.usdoj.gov/crt/voting/hava/hava.html>

WHEELCHAIRS

Massachusetts Wheelchair Lemon Law

[G.L. c. 93, §107](#)

Individuals who lease or purchase customized wheelchairs are entitled to have defects repaired or if not repairable refunds, plus interest paid. Failure to conform can result in fines to the manufacture of twice the cost to the consumer.

Enforcement:

Office of Consumer Affairs, Business Regulations
10 Park Plaza, Suite 5170
Boston, MA 02116
(617) 973-8700

Website: <http://www.mass.gov/consumer>

ZONING

Massachusetts Zoning Law, Access Ramps

[G.L. c. 40A § 3 ¶8](#)

No dimensional lot requirement of a zoning ordinance or by-law, including but not limited to, set back, front yard, side yard, rear yard and open space shall apply to handicapped access ramps on private property used solely for the purpose of facilitating ingress or egress of a physically handicapped person. The ramp must comply with [AAB standards](#).

Massachusetts Zoning Law, General and Community Residences

[G.L. c. 40A § 3 ¶4](#)

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination.

The provisions of this paragraph apply to every city or town.

Notes

Deval L. Patrick, Governor
Timothy P. Murray, Lt Governor
Myra Berloff, Director



1 Ashburton Place, # 1305
Boston, MA 02108
[617] 727-7440 (V/TTY)
[800] 322-2020 (V/TTY)
[617] 727-0965 FAX

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