

# TOWN OF WESTFORD

Policy and Program Review



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## 1.0. INTRODUCTION

The Town of Westford is in Middlesex County in the Commonwealth of Massachusetts. The population, based on the 5-year American Community Survey, is 24,465. Twenty-Four thousand Four hundred and sixty-five (24,465) individuals live in the community. According to the ACS, One thousand eight hundred and twenty-seven (1,827) have some form of disability, or approximately six-point three percent (6.3%) of the population. A breakdown of disability by type is included below (note that some individuals identify as having multiple disabilities):

### Disability Type

Hearing Difficulty	688	2.8%
Vision Difficulty	163	0.7%
Cognitive Difficulty	629	2.7%
Ambulatory Difficulty	725	3.1%
Self-Care Difficulty	319	1.4%
Independent Living Difficulty	707	3.9%

Disability Type By Age	LT 18	18 – 64	65 +
Hearing Difficulty	0	114	574
Vision Difficulty	21	9	133
Cognitive Difficulty	92	313	224
Ambulatory Difficulty	9	139	577
Self-Care Difficulty	22	98	199
Indep. Living Difficulty	0	230	477
Totals By Age	144	903	2,184



## 1.1 Direct Access

Established in 2004, Direct Access is a DOBE (team of disabled people) operating out of the United Kingdom, U.S., and Middle East providing design consultancy, access audits, accessible products, and inclusive media. Our motto, "Improving Access for Everybody," underscores our commitment to creating universally accessible environments. We deliver projects across the UK, United States, United Arab Emirates, Saudi Arabia, Australia, Oman, Ireland, France, and Switzerland, offering reliable and informed consultancy based on the common practices and philosophies of our host nations. We dedicate ourselves to our clients on all levels from strategy, benchmarking, guidance writing, and access appraisals, to accessibility audits for already established sites.

Direct Access believes that creating accessible environments enables products, programs, and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized modification. This philosophy ensures that our facilities are accessible to the widest range of potential users without the need for ancillary aids or additional support to access. If an environment is accessible, usable, convenient, and intuitive to use, everyone benefits.

Our approach is deeply rooted in the principles of people-centric design and inclusion. By embracing a strategy that prioritizes the experiences and needs of people, including those with disabilities, we ensure that our projects not only meet but exceed standards of accessibility and usability. We recognize that true accessibility is achieved not only through meeting technical standards but also through fostering an inclusive culture that values each individual's experience.

This inclusive approach to design and consultancy means that access for people with disabilities (PWDs) delivered through inclusive and universal design will benefit everyone, not just those with disabilities. Level access for wheelchair users also benefits young families with prams and pushchairs, older persons with reduced mobility, and blind and partially sighted people, just as captions (subtitles) support most visitors (blind and partially sighted excepted).



*Figure 1: Inclusive design enables a diverse range of people who can benefit, not just people with disabilities.*



Our experience working with a vast and diverse group of organizations has continuously revealed a strong desire to go beyond mere compliance. This is where we excel, developing effective partnerships across all stakeholders to create innovative sites and buildings that draw on international best practice in accessibility. Our team includes individuals with disabilities across the spectrum of limited mobility, sensory impairment, mental health, and autism. We have drawn on our inherent expertise and understanding of the barriers that people face daily and ways that these can be mitigated.

By taking a people-centric approach, we position ourselves not just as consultants but as advocates for inclusion, ensuring that each project contributes positively to the social fabric and promotes equal access for all.



## 2.0. SERVICES AND PROGRAMS

### 2.1. ADA Coordinator

As required by law, since the Town of Westford has more than 50 employees, they are required to have an ADA Coordinator. The Town's ADA Coordinator is:

Mike Edwards

Assistant Town Manager

Westford Town Hall

Westford, MA 0186

Phone: 978-692-5501

Email: [accessibility@westfordma.gov](mailto:accessibility@westfordma.gov)

### 2.2. Public Education

The Town of Westford has 9 public schools and 2-day care/pre-school centers that service the community.

Col. John Robinson School serves grades K – 2 P\*.

Nabnasset School serves grades K-2 P\*.

Rita Edwards Miller School serves grades k-2 P\*.

Norman E. Day School serves grades 3-5 P\*.

John A. Crisafulli School serves grades 3 – 5 P\*.

Abbott School serves grades 3 – 5 P\*.

Stony Brook Middle School serves grades 6-8 A\*.

Lloyd G. Blanchard Middle School serves grades 6 – 8 A\*.

Westford Academy serves grades 9 – 12 M\*.

Roudenbush Children's Center at Frost serves childcare and pre-school P\*

Roudenbush Children's Center at NAB serves childcare and pre-school P\*

Millennium Building M\*.



Both Children's Centers were included in the scope of this ADA evaluation, although they are not Town of Westford or Westford Public Schools programs. The Town leases these buildings to The Roudenbush Community Center, Inc., which is responsible for programming

Schools identified with a P\* had a playground evaluated. Schools with an A\* had athletic fields evaluated. Schools with an M\* had meeting spaces used for Town programs evaluated.

## 2.3. Public Transportation

The Town of Westford does not have public transportation (buses).

## 2.4. Recreation

Westford has many recreation opportunities offered through or on behalf of the town. For this review, Edwards Beach and Forge Pond Beach was examined.

This means that all swimming programs offered by the town (swimming, paddleboarding, fishing and boating) are not accessible to individuals with mobility or other disabilities. There is no accessible route from the entrance to each beach area or from the entrance down onto the dock area. The picnic area does not have an accessible route to each area and the picnic tables themselves do not provide adequate knee and toe clearance for wheelchairs.

Modification and Accommodation language is missing from the description of all programs. Some programs require applications and Health release forms while for others the application is missing from the online page describing the program. Registration for some programs are processed via an online screen.

The review included the following athletic fields:

- American Legion Field
- Cameron Field
- Community Field at Nutting
- Forge Village Ball Fields
- Frost Field and Whitney Playground
- Greystone Field
- Jack Walsh Field

The following programs are offered by the Town of Westford Recreation Department:

**Recreation's Westford Partnership for Children (WPC)  
After School Enrichment Program for children K-5\*\***



WPC Abbot After School Program  
WPC Crisafulli After School Program  
WPC Day After School Program  
WPC Miller After School Program  
WPC Nabnasset After School Program  
WPC Robinson After School Program

### **Special Programs\*\***

#### **Westford Recreation Special Programs**

#### **Summer Weekly Programs\*\***

Summer Beach Party at Destination Exploration  
Kids Club  
Destination Exploration

\*\*ARPA Funding available for income qualified families.

#### **Fall/Winter Squirt**

Soccer Shots

Most of the K-5 programs have health forms and the Parent Handbooks go into detail about chronic health conditions and have medical release forms. In the parent's manual there is non-discrimination and accommodation language which is positive. Other programs offered include:

#### **Fall/Winter Youth**

CPR, First Aid and AED with Mike Votano, RN  
Impact Sprints Academy with DJ Brock (grade 9 – 12)  
Junior Impact Speed and Agility- Games Galore (age 10 – 12)  
Nitehawks Track & Field Cross Country (grade K – 8)  
On The Mark Archery (age 8 – 100)  
Puzzle Clash: Westford vs Littleton-connecting with neighboring community (age 5 – 100)  
Youth Chess by International Master Prathiba Y (age 5 – 14)

#### **Fall/Winter Adult**

CPR, First Aid and AED with Mike Votano, RN  
On The Mark Archery (age 8 – 100)  
Puzzle Clash: Westford vs Littleton-connecting with neighboring community (age 5 – 100)

#### **Tennis with Marcus Lewis**

Marcus Lewis Tennis Extension Program

#### **International Travel: Greece**

Greece trip for grades 6 – 8  
International Travel Program

#### **EBC Campsite Rentals**



## EBC Campsite Rentals

### **Winter Youth**

Youth Chess by International Master Prathiba Y (age 5 – 14)

The Westford Recreation Program Health Form and the Program Registration Form ask, “Does this child have any problems which require ‘special’ attention?”. Without directly asking if accommodation is required this language might be acceptable. However, it is preferable to have accommodation language included in each program application. In the appendix I have included a “Dear Colleague Letter” issued by the Department of Justice Office of Civil Rights which discusses in detail ways in which students with disabilities may be integrated into school athletic programs.

## **2.5. Health Care**

The Board of Health is responsible for disease prevention and control, public health, environmental protection, and promoting a healthy community. The Board of Health enforces state and local regulations governing everything from wells and water supplies through food services, disease prevention and social services. Westford does not have a community hospital. The closest hospital is UMASS Medical, Marlboro Campus.

## **2.6. Social Services**

Westford has one licensed social worker and a Community Wellness Coordinator to coordinate needed services with other agencies. The Town Social Worker provides comprehensive professional social work services to assist Westford town residents with social, emotional, and economic needs. The Community Wellness Coordinator increases overall awareness of community support by sharing wellness information and resources, with a focus on mental health and substance use disorders with Town departments, schools and community groups. The Town of Westford also has an online Community Service Resource Guide which provides information and contact numbers for community-based services and resources.

Social Services include transitional case management, consultation, information and referral, advocacy and support, and crisis intervention. Services are confidential and open to all Westford residents regardless of age or income.

## **2.7. Courts**

Westford does not have a courthouse located within the boundaries of the town. All courts are handled regionally in areas outside of Westford.



- District Court: Ayer District Court.
- Housing Court: Northeast Housing Court Lowell Session.
- Juvenile Court: Middlesex County Juvenile Court Lowell Session.
- Land Court: Statewide Jurisdiction Boston.
- Probate and Family Court North Lowell.
- Superior Court Lowell Superior Court.
- Supreme Judicial Court John Adams Courthouse, Boston.
- Appeals Court John Adams Courthouse, Boston.

## 2.8. Voting

Early voting is offered. Voter registration is either online, in person, or via mail. Accessible ballots and voting by mail are offered. The ability to request accessible ballots is done through the Secretary of the Commonwealth's office via an online request <https://www.sec.state.ma.us/MailInRequestWeb/MailInBallot.aspx>. The town does have an Automark machine and poll workers are available to assist if someone should require it.

Two schools are used for Voting: Westford Academy and Stony Brook School. Both schools are accessible. The Secretary of the Commonwealth Elections Division conducted the assessment to verify that the schools meet the criteria required for accessible elections.

The town received an Automark machine which is available at all election locations and during early voting for voters who are sight impaired. The Automark 'reads' the ballot via headphones, and it also has a braille keypad. The screen is a touch screen and a voter, or a worker can adjust the size of the font. The state provided Automark machines to every community several years ago.

If a voter doesn't want to use the Automark, poll workers are available to assist voters to read and mark the ballot. Two poll workers would be present to assist the voters. The voter is also able to select a person of their choice to assist them with the ballot.

## 2.9. Emergency Services

All emergency services calls are handled through the Fire Department. The Fire and Police Departments receive training from the Commonwealth of Massachusetts on how to communicate and interact with people with disabilities. One item that stood out in the questionnaire is that those with Mental Health issues and Developmentally Disabled ("DD") and those with Intellectual Disabilities {"ID"} are handled in a similar manner. This **may require modified training** as outlined in the model police policy on DD and ID in the appendix.



## 2.10. License Renewal

Most licenses can be applied for or renewed either in person at Westford Town Hall or through the Town of Westford website. If one wishes to access the form one must download the PDF license, print out the form manually, scan the completed form into a PDF and then send the form to the town as an email attachment.

There are some documents in PDF form which the document, when opened, cannot have text highlighted. If text cannot be highlighted then it may not be able to be 'read' by some screen reader software. An example of documents in PDF form which have this issue include Zoning Board of Appeals Comprehensive Permits Rules and Regulations

<https://www.westfordma.gov/DocumentCenter/View/2988/Comprehensive-Permit-40B-Rules-and-Regulations-PDF>

## 2.11. Community Services

The Town of Westford issues a PDF publication which includes all programs offered within the community. While the PDF does not meet accessibility for screen reader software the links within the document can be used to obtain additional information from the source website.

## 2.12. Town Meetings

Westford holds an Annual Town Meeting at the Westford Academy Fields which meets accessibility requirements. In addition to the Annual Town Meeting, a second Special Town Meeting has been held in each of the last 3 years.

The Westford Disability Commission is heavily involved Town Meeting preparation which includes:

- Request for accommodations to include proxy voting with advance notice
- COD table and volunteer guides at entry to assist
- Reserved accessible seating
- Mask-mandatory seating section
- Braille clickers, ALD's,
- Additional parking permits for individuals with mobility challenges but without a placard



## 2.13. Disability Training

The Town of Westford's Public Safety Departments and the Recreation Department conduct disability training.

Direct Access offers training in the areas of Effective Communication, inclusion, and other forms of training that can be suited to the Town of Westford's needs.

## 2.14 Disability Commission

The Town of Westford does have a Disability Commission, yet the commission is called upon intermittently to review buildings being constructed or parks and playgrounds being updated. When the Disability Commission does review changes to Town Buildings, plans are brought in front of the Commission the at the 75% completion state. At that point it is far too costly to make any accessibility changes if a change can be made at all.

For inclusion purposes, Westford's Disability Commission **must be made aware of town projects** when project work is in **the design stage. The Disability Commission should forward comments to project personnel as required to ensure inclusion for individuals with disabilities.** The Disability Commission can save the town significant additional expense by reviewing and providing feedback early in the Design phase of projects. By getting involved sooner in the development process the Disability Commission will become more proactive than reactive and will save the Town money in re-design and effort.

The Westford Disability Commission must work with the Town Manager or Assistant Town Manager, the ADA Coordinator and other Departments involved in Town construction and changes to Town programs are concerned.



## 3.0. POLICY REVIEW

The Town of Westford has the following policies in place that were reviewed and compared to Title I and Title II regulations, Massachusetts General Laws, and model policies of the ADA and the Commonwealth of Massachusetts. All policies exist in PDF format. Unfortunately, the PDF files are not accessible for Screen Readers and none of the policies exist in text or HTML format. It is highly suggested that the Town of Westford provide text versions of all policy and procedure documents that exist as PDFs to ensure inclusion of those who require screen readers to process printed information.

### 3.1. Policies

#### Public Notice

<https://www.westfordma.gov/DocumentCenter/View/9448/ADA---Building-Department--Notice-of-Non-Discrimination-10-2020>

The Public Notice includes information on:

- Employment (non-discrimination)
- Effective Communication
- Modifications to Policies and Procedures (Accommodation)

### 3.2. Employment

#### Employment Finding

The Town of Westford has a Policy Manual. The manual is available from the Human Resources page. Sections within the manual include:

- **Recruitment and Selection Policies**
  - o Recruitment Policy
  - o Recruitment Procedures
  - o Applications
  - o Examinations
  - o CORI Checks
  - o Pre-employment Medical Exams
  - o Employment Eligibility
- **Employment**
  - o Orientation



- Probationary Policy
- Transfers
- Promotions
- Demotions
  
- **Professional Code of Conduct**
  - Professional Conduct
  - Political Activity
  - Conflict of Interest
  - Safety
  - Workplace Violence
    - Sexual harassment
    - Protected Class Harassment

Under the **recruitment policy** a mention is made of an **Affirmative Action Plan** adopted by the Town Board. The date that the Affirmative Action Plan was adopted is not included in the citation. When a site-wide exact word search is performed on “Affirmative Action Plan” a blank or null result is returned indicating an absence of the referenced document.

Outside of the mention of being an equal opportunity/affirmative action employer under their employment policies, no mention is made of accommodation or modification process or procedures in any other section within the employment process.

### 3.3. Employment discrimination

#### Employment Discrimination Finding

From a process standpoint, there is not a formal procedure or form for reporting employee complaints. I was able to find a form that outlines the Non-Employee Discrimination Complaint Procedure which is quite extensive but for employees no such process exists unless it is limited to the following specific complaint types and associated forms:

- Building Complaint
- Police Department complaint
- Non-Employee Discrimination Complaint

The Town has explained extensively about the various types of discrimination through codes of conduct. Reporting to supervisors or managers or directly through Human Resources is outlined.



### 3.4. Employment application

#### Employment Application Finding

The Town of Westford Job Opportunities Page has job descriptions but no applications. The job description is available in PDF format or in regular web format. There are employment applications on the Recreation Department Employment Opportunities web page. The Recreation Department Application does have Equal Opportunity and Non-Discrimination language.

One thing that I noticed through an examination of policies and forms is that there is nothing within the employment process that permits one to self-identify a disability.

Self-identification should not be confused with self-disclosure. Self-identification and self-disclosure are separate and distinct.

Self-identification is the process of completing and submitting the self-identification form through a confidential process to an ADA Coordinator.

Self-disclosure is the written or verbal, voluntary disclosure of a disability by an employee to others in the workplace. Self-disclosure may occur formally with a manager or ADA Coordinator to request accommodation or informally, at the desire of the employee. The employee may voluntarily share the fact that they have a disability for many reasons including but not limited to:

- To receive accommodation to improve the employee's ability to remain productive or increase productivity in his or her work environment regarding the essential function of their job.
- To receive assistance in an emergency or as part of emergency preparedness planning.
- To willingly communicate with others about circumstances (such as prolonged absence or changes in workspace) that result from the person's disability.
- Because of a desire to express an aspect of their personal experience.
- The employee is never required to disclose, except when seeking accommodation.

The employment application used by the Recreation Department lacks any form of disability self-identification for affirmative action purposes. Suggested wording is included below if the town wishes to utilize it either as part of their job descriptions or with their job applications:



## SELF IDENTIFICATION LANGUAGE

Why are you being asked to complete this form?

The Town has an obligation to reach out to, hire, and provide equal opportunity to qualified people with disabilities. To help the town to measure how well we are doing, we are asking you to tell us if you have a disability or if you ever had a disability.

**Completing this form is voluntary**, but we hope that you will choose to fill it out.

If you are applying for a job, any answer you give will be kept in strict confidentiality and will not be used against you in any way. If you already work for the town, your answer will not be used against you in any way. Because a person may become disabled at any time, we are required to ask all employees to update their information every five years.

You may voluntarily identify as having a disability on this form without fear of any punishment because you did not identify as having a disability earlier.

### **How do I know if I have a disability?**

You are considered to have a disability if you have a physical or mental impairment or medical condition that substantially limits one or more major life activities, or if you have a history or record of such an impairment or medical condition.

Disabilities include, but are not limited to:

- Blindness
- Deafness
- Cancer
- Diabetes
- Epilepsy
- Autism
- Cerebral palsy
- HIV/AIDS
- Schizophrenia
- Muscular dystrophy
- Bipolar disorder
- Major depression
- Multiple sclerosis (MS)
- Missing limbs or partially missing limbs
- Post-traumatic stress disorder (PTSD)
- Obsessive compulsive disorder
- Impairments requiring the use of a wheelchair.
- Intellectual disability (previously called mental retardation)



Please check one of the boxes below:

- YES, I HAVE A DISABILITY (or previously had a disability)
- NO, I DON'T HAVE A DISABILITY
- I DON'T WISH TO ANSWER

\_\_\_\_\_  
Employee's/Applicant's Name                      Date

### **REASONABLE ACCOMMODATIONS NOTICE**

Federal law requires employers to provide reasonable accommodation to qualified individuals with disabilities. Please tell us if you require reasonable accommodation to apply for a job or to perform your job.

Examples of reasonable accommodation include making a change to the application process or work procedures, providing documents in an alternate format, using a sign language interpreter, or using specialized equipment. Section 503 of the Rehabilitation Act of 1973, as amended.

For more information about this form or the equal employment obligations of Federal contractors, visit the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) website at [www.dol.gov/ofccp](http://www.dol.gov/ofccp).

**PUBLIC BURDEN STATEMENT:** According to the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. This survey should take about 5 minutes to complete.

## **3.5. Job descriptions**

### **Job Description Finding**

Job descriptions should expressly state that the employee must be able to perform the essential functions of the position satisfactorily and, if requested, reasonable accommodations will be made to enable employees with disabilities to perform the essential functions of their job, absent undue hardship.



### 3.5.1. Reasonable Accommodations and Modifications

#### Accommodation Finding

Accommodation and Modification Policies are not referenced on the Town of Westford Job Opportunities Page <https://www.westfordma.gov/Jobs.aspx>, or as part of the Job Description (sampled below):

<https://www.westfordma.gov/Jobs.aspx?UniqueId=98&From=All&CommunityJobs=False&JobID=Now-Hiring-Veterans-Service-Officer-Supp-320>

or employment application:

<https://www.westfordma.gov/DocumentCenter/View/11842/Application-for-Employment>.

The Accommodation/Modification policy link is available on the Commission on Disability page.

The following are suggestions which may make the process more understandable for both new and current employees.

- It may be helpful to provide examples of disability accommodations and religious accommodations.
- Require managers to respond promptly and effectively to reasonable accommodation requests.
  - Consider requesting that applicants and employees be updated on the status of their accommodation requests, especially if identification and/or provision of the accommodation takes longer than expected.
  - Consider proposing temporary accommodation(s) if the agreed-upon accommodation cannot be provided immediately.
- Explain that in certain circumstances, you may need to request additional medical or religious information or documentation to establish whether the individual's medical conditions or religious beliefs are protected by law, or to determine whether and what type(s) of accommodations would be effective. Encourage applicants and employees to respond to these requests promptly.
- Require managers to keep any medical information received as part of an accommodation request or during the accommodation process confidential and in a separate medical file.
- Consider requiring that decisions to either deny accommodation requests or to provide accommodation(s) other than the requested accommodation(s) be explained to the applicant or employee. This may help prevent misunderstandings and complaints.
- Explain how employees can report discrimination related to reasonable accommodations (such as improper denial of a reasonable accommodation request).



- Describe the consequences of violating the reasonable accommodation policy.

*\* Federal, state, and local laws may require you to provide reasonable accommodation for other reasons. Federal, state, and local government websites may have additional information about these laws.*

### 3.5.2. Direct Threat

#### **Finding: The Town of Westford lacks a Direct Threat Policy**

An "undue threat" policy, often referred to as a "direct threat" policy under the ADA, is important because it allows employers to take action against an employee with a disability if their condition poses a significant risk of substantial harm to themselves or others in the workplace, which cannot be mitigated by reasonable accommodations, thus providing a legal defense against discrimination claims while still upholding the ADA's core principle of protecting individuals with disabilities.

#### **Key points about undue threat/direct threat policies under the ADA and EEOC:**

- **Protects employees and others:**

This policy ensures that employers can take necessary steps to prevent serious safety hazards caused by an employee's disability, protecting both the disabled employee and their colleagues.

- **Requires individualized assessment:**

To invoke the "direct threat" defense, employers must conduct a thorough evaluation based on objective medical evidence, considering the nature of the disability, the severity of the potential harm, and whether reasonable accommodations could eliminate the risk.

- **High threshold for invoking the defense:**

The ADA sets a high bar for claiming "direct threat," meaning employers cannot use unfounded fears or stereotypes about disabilities to justify discriminatory actions. Example scenarios where an undue threat policy might be used:

- An individual with uncontrolled epilepsy who operates heavy machinery may be considered a direct threat if their seizures could lead to accidents causing serious harm.
- A person with a contagious disease that poses a significant risk to coworkers in a healthcare setting, where reasonable accommodations cannot fully mitigate the risk.

#### **Important considerations:**

- Consult legal counsel:



Due to the complex nature of "direct threat" determinations, employers should always seek legal advice before taking any action against an employee based on a disability.

- Document thoroughly:

Maintain detailed records of medical evaluations, discussions with the employee, and any proposed accommodations to support the decision if challenged.

### **Additional Considerations**

Can an employer remove a person with a disability from a job if it is believed that the person poses a health or safety risk within the workplace? Courts have ruled that under Title I of the Americans with Disabilities Act ("ADA"), an employer may exclude an individual from a job if that individual would pose a "direct threat"—a significant risk of substantial harm—to the health or safety of the individual him or herself or to others that cannot be eliminated or reduced by a reasonable accommodation.

However, in order to ensure that employers do not unjustly exclude people from the workplace based on unwarranted fears, generalizations, stereotypes, or myths about a particular disability, the ADA requires that employers engage in an individualized assessment that is based on reasonable medical judgment relying on the most current medical knowledge and/or on the best available objective evidence.

### **EEOC Regulations and Direct Threat**

The definition of direct threat in the EEOC's regulations adds additional language to the ADA's definition. The regulation states that a direct threat is "a significant risk **of substantial harm** to the health or safety **of the individual** or others that cannot be eliminated **or reduced** by reasonable accommodation." (Language added to the regulation is bold).

Under EEOC regulations, a decision whether an individual presents a direct threat must be based on a particularized inquiry. Such a determination must be based on "an individualized assessment of the individual's present ability to safely perform the essential functions of the job" which itself must be based on "a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence."

The assessment should consider four factors:

- (1) the duration of the risk.
- (2) the nature and severity of the potential harm.
- (3) the likelihood that the potential harm will occur; and
- (4) the imminence of potential harm.

The Interpretative Guidance also states that the "determination (of a direct threat) must be based on individualized factual data, using the factors discussed above, rather than on stereotypic or patronizing assumptions and must consider potential reasonable accommodations."



### **Medical Information – A Reasonable Medical Judgment Based on the Best Available Objective Evidence**

Employers may only request that employees undergo medical examinations and inquiries that are job-related and consistent with business necessity.

This requirement is satisfied when an employer has: a reasonable belief, based on objective evidence, that:

1. an employee's ability to perform essential job functions will be impaired by a medical condition; or
2. an employee will pose a direct threat due to a medical condition.”

After basing a request for medical information on objective evidence, employers should be aware that the nature of the medical evidence relied upon is important. Employers are generally on strong ground if there is medical substantiation for the conclusion that the employee poses a direct threat to health and safety.

### **Reasonable Accommodations to Reduce or Eliminate the Direct Threat**

The analysis of direct threat does not end with the inquiry of whether the person poses a significant risk of substantial harm to oneself or to others. An employer must determine whether the potential threat can be reduced or eliminated through the implementation of some type of reasonable accommodation.

### **Direct Threat Model Policy**

When an individual with a disability is requesting accommodation and can be reasonably accommodated without causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

The Town will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation.

All employees are required to comply with the company safety standards. Current employees who pose a direct threat to the health and/or safety of themselves or other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employees' immediate employment situation. Individuals who are currently using illegal drugs are excluded from coverage under the company ADA policy.



The HR department is responsible for implementing this policy, including resolution of reasonable accommodation, safety/direct threat issues.

**Terms used in the policy.**

As used in this ADA policy, the following terms have the indicated meaning:

**Disability** means a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.

**Major life activities** include the following, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

The ADA Amendments Act of 2008, the 'ADAAA', also includes the term "**major bodily functions,**" which may include physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Substantially limiting:** In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include, but are not limited to, epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment such as cancer that is in remission but that may possibly return in a substantially limiting form also is considered a disability under EEOC final ADAAA regulations.

**Direct threat** means a significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

**Qualified individual** means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

**Reasonable accommodation** includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.



**Essential functions of the job** refer to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

### 3.5.3. Undue Hardship

**Finding:** The Town of Westford lacks an Undue Hardship Policy. While compromise solutions can be handled through the interactive process, the Town of Westford still should have a policy in place to address concerns of this type from a financial and resource perspective.

**Recommendation:** Adopt a policy, procedure and strategy on how to deal with accommodation or modification requests which, by their nature, will cause an excessive burden of any type to the town. The policy's goal is to mitigate such instances, so the town does not need to face such a dilemma.

UNDUE HARDSHIP is a defense against costly reasonable accommodation requests. "Undue hardship" under the Americans with Disabilities Act (ADA) means a significant difficulty or expense an employer would face if they were to provide a reasonable accommodation to an employee with a disability, essentially allowing them to deny a request if it would be too costly, disruptive, or fundamentally alter the nature of their business operations; **it's important because it provides a legal defense for employers when they cannot fulfill an accommodation request without experiencing substantial burden based on their specific circumstances.**

#### Key points about undue hardship:

- Case-by-case evaluation:

Whether an accommodation constitutes an "undue hardship" is determined on a case-by-case basis, considering factors like the size of the employer, the cost of the accommodation, and the nature of the business operation.

- Factors considered:

When assessing undue hardship, courts look at the cost of the accommodation, the employer's financial resources, the impact on other employees, and whether the accommodation would significantly alter the way the business functions.

- Burden of proof:

If an employer claims an accommodation would be an undue hardship, they must provide evidence to support this claim.

- Alternative accommodations:

If a specific accommodation is deemed an undue hardship, the employer must explore other reasonable accommodations that might be feasible.

Example of undue hardship:



- A small business with a limited budget might argue that installing a specialized elevator for a wheelchair-bound employee would be an undue hardship due to the significant cost involved.

#### **EEOC Enforcement Guidance:**

#### **Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act**

#### **UNDUE HARDSHIP ISSUES**

Undue hardship must be based on an individualized assessment of current circumstances that shows that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including:

- the nature and cost of the accommodation needed.
- the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility.
- the overall financial resources, size, number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity).
- the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer.
- the impact of the accommodation on the operation of the facility.<sup>(114)</sup>

The ADA's legislative history indicates that Congress wanted employers to consider all possible sources of outside funding when assessing whether a particular accommodation would be too costly.

Undue hardship is determined based on the net cost to the employer. Thus, an employer should determine whether funding is available from an outside source, such as a state rehabilitation agency, to pay for all or part of the accommodation. In addition, the employer should determine whether it is eligible for certain tax credits or deductions to offset the cost of the accommodation.

### **3.6. Public meetings**

#### **Access to Public Meetings Findings**

The procedure states in very general terms that accommodations will be made available if the accommodation request is received by a certain date but does not get into specifics. Accessibility is more than providing ASL interpreters or captioning and should also include audio descriptions for blind and low vision individuals.



### 3.6.1 Audio Descriptions

Audio descriptions are audio narrated descriptions of a television program's key visual elements. These descriptions are inserted into natural pauses in the program's dialogue.

Suggestions ensuring all meetings are accessible from a procedural standpoint are provided in the following section.

### 3.6.2. Considerations for ensuring accessible virtual meetings and presentations

#### 3.6.2.1. Selecting a platform

After determining which platforms meet an agency's operational needs, the agency should consider **selecting the platform that provides the highest level of accessibility.**

Consult with vendors and review their accessibility statements which offer insight into how various users with disabilities would interact with the platform. Find out how the system would work with an ASL interpreter, CART, or closed captioning or if a screen reader or strictly keyboard user could access features such as screenshare, chat, and video recording. The Massachusetts Office on Disability (MOD) offers accessibility consulting services free of charge to state agencies to help assess the accessibility of various platforms. Zoom and Microsoft Teams are two of the most frequently used software packages used for virtual meetings. You can also reference the [Statewide IT Accessibility Services Contract \(ITS61\)](#) for accessibility audits and other digital accessibility-related services.

If an agency has identified a platform that meets its operational objectives but has inaccessible features, the agency should determine whether those features are critical to access.

If the identified barriers are not critical, the agency should avoid using those features during the meeting/presentation. For those components deemed to be critical but not accessible, the agency should explore alternative ways that a participant with a disability can effectively participate in the meeting/presentation.

For example, Platform X allows presenters to take polls in order to gather real-time feedback testing attendees' knowledge or gathering their votes. The agency has deemed this to be a critical component for participation. However, Platform X's polling functionality doesn't work with certain assistive technologies. An alternative method of meaningful participation must be explored and shared with attendees. For attendees who can't access the polling features, the agency could allow feedback via alternative methods such as a Q&A or chat box, an email address, or a phone number where attendees can call or text in their submission. These alternative methods would need to be monitored in real-time to achieve equivalent access.



### **3.6.2.2. Presentation materials**

To the extent possible, ensure that all presentation materials are accessible to and usable by people with disabilities including those using screen readers and other assistive technologies and those requiring large print. Since users of screen readers cannot read documents through a screen share and those using magnification may find that screen share video may be distorted with increased magnification, providing these materials in advance would allow these participants to better follow the discussion in real time.

Please review Microsoft's support page on [creating accessible Office documents](#) to best assure that presentation materials are accessible to the widest audience possible. Additionally, Minnesota IT Services have created a [free e-learning program](#) on how to create accessible Word documents.

### **3.6.2.3. Plan ahead for communication access services.**

Secure ASL interpreters and CART services in advance of the meeting or presentation. These important communication services can easily be offered on a digital platform.

The Massachusetts Commission for the Deaf and Hard of Hearing provides referrals for interpreter and CART services. You can request these services via their [how to request an interpreter or CART provider](#) webpage or by calling **617-740-1600 (voice)** or **617-740-1700 (TTY)**. It is good practice to make your request at least two weeks prior to the event to ensure a provider is available.

If you are hosting a web-based meeting, check whether the web meeting platform's closed captioning functionality is compatible with an external CART reporter's software.

Decide whether you will provide CART/ASL interpreter services proactively or only upon request. When making this decision, think about the nature of the event: Will people be required to register for the event? Does the event have a fixed or undefined audience? How many attendees are you expecting? Will the event be live streamed? Will it be recorded? In instances where participants have been invited in advance, the invitation should direct people to contact the agency ADA Coordinator to request ASL interpreter or CART services. This direction can be included in the reasonable accommodation statement described in the next paragraph.

### **3.6.2.4. Reasonable accommodation statement**

When advertising meetings or presentations, the Town of Westford does include a reasonable accommodation statement that informs invitees to notify the Town of any modifications to policies, practices, or procedures that they would need to equally participate due to a disability-related limitation. This statement includes a point of contact ([accessibility@westfordma.gov](mailto:accessibility@westfordma.gov)), a telephone number (978-692-5501) and a date by which requests should be received to ensure that the Town has adequate time to secure the accommodation(s).



### 3.6.2.5. Meeting Best Practices

#### Before the meeting:

- Do a trial run. If you have already identified employees who need to use accessible features of a platform, ask them to test it with you.
- If the Town plans on making certain accommodations, such as ASL or CART available without request, be sure to include this information in any meeting advertisements. If participants must request services such as ASL or CART, be sure to provide instructions for how to make those requests.
- Send out accessible meeting materials (slides, handouts, etc.) in advance.
- Determine which features will be used in the meeting/presentation and include details about how to use those features on the meeting/presentation invitation or reminder. For example, provide a list of commonly used shortcut keys that can be used on the platform or any specific instructions that pertain to users of assistive technology.
- Provide an outside contact point, such as a designated phone number and email address, that attendees can reach to address any accessibility concerns that may arise prior to and during meetings/presentations. Include these contact points with any communications advertising the event. Provide these alternative contact points during the beginning of the meeting/presentation, as well as periodically throughout the event. Designate a specific staff member or members (such as your ADA Coordinator) or a Commission on Disabilities member to monitor these channels in real-time.
- If using CART services, include the link to CART in meeting reminders so attendees can access the meeting link and the link to the CART platform in one place.
- Become familiar with the features of the platform, including the accessible features and share them with participants. This could include providing a link to CART in the chat window, offering a brief overview of how to interact with the platform at the beginning of the meeting/presentation, and providing these types of verbal instructions for the duration as features are being utilized.
- Prior to the start of a meeting/presentation, assign the CART reporter with the credentials/permissions needed to display closed captions. Once the assignment has been provided, request that the reporter provide a test message to confirm that closed captions are displayed. Test once more immediately after the start of the meeting/presentation. Inform the CART reporter in advance if you want a copy of the transcription.
- If providing ASL interpreter services, secure two interpreters for meeting/presentations lasting 1 hour or longer. Prior to the meeting/presentation,



discuss with the ASL interpreters on how long each would like to be visible on screen before taking a break.

### During the Meeting:

- If the meeting/presentation will be recorded, advise attendees at the start.
- If using two or more ASL interpreters, temporarily pause the meeting/presentation to allow for a smooth change over. Resume the meeting/presentation once the changeover is complete and you have ensured that the ASL video is prominently on screen.
- When using an ASL interpreter, make sure that the video remains prominently visible onscreen throughout the meeting/presentation. This may mean using a “spotlighting” or “pinning” feature on the ASL interpreter’s video. Depending on the platform, the host may need to give permission to interpreters or attendees to enable the “spotlighting” or “pinning” features. Depending on the platform, this may also require asking participants to turn off their video to ensure that the interpreter can be seen or displayed more prominently.
- If audio quality is an issue, consider requesting that participants turn off the video feature if it is not essential to participation.
- Avoid more than one person speaking at a time. Crosstalk may be distracting for attendees and presents difficulties in relaying accurate information for ASL interpreters and CART captioners.
- Direct presenters must identify themselves each time they speak. Doing this will ensure that attendees participating over the phone or who may be using assistive technology understand who is speaking at any given moment. Similarly, this will aid ASL interpreters and CART captioners and will provide for a more accurate transcript.
- When using screenshare or presenting materials on screen, provide a verbal explanation of what is being displayed so that those participating by phone or those who are unable to see the document or review the materials with assistive technology will be better able to follow along.
- If you are planning on using a video as part of your training or presentation curriculum then it should have **audio description**, or the visual aspects of the video should be described before or in between the dialogue of the video by a person on the training team.
- Consider limiting the use of any chat functionality as comments may be automatically read aloud to attendees using assistive technology, which may cause distractions. Similarly, attendees participating over the phone will not have the benefit of reading chat messages. This functionality should be used sparingly and presenters or their designees should be prepared to read aloud any important statements/messages posted in the chat.



- Keep a record of any URLs or important references included in a chat or Q&A feature and make these items available post meeting/presentation.
- Plan ahead for how you will call upon attendees who cannot use a chat or hand-raise feature. Designate a staff member to monitor attendees' screens if the participant is signaling that they are attempting to ask a question and are prevented from doing so.

### **After the Meeting**

- Provide captioned video as part of the documentation for anyone who might find the information useful.
- Include PDFs of any handouts or other document such as power point presentations, etc.
- Be sure to include a text version of the entire meeting and any handouts so visually impaired individuals with screen readers have access to information about the entire meeting.

## **3.7 Effective Communication**

The Town of Westford, while performing adequately in the area of Effective Communication, could use additional training. Understanding how to conduct Video Relay Services through the Massachusetts Commission for the Deaf and Hard of Hearing is certainly a good first step. The Commonwealth of Massachusetts offers free Mass Relay services, and the town should review information at the following link: <https://www.mass.gov/massrelay>. Town officials and heads of boards are unfamiliar with how to respond to calls received from Video Relay services.

### **3.7.1 Town Documentation**

Town documentation is not available in braille and in some cases exists in electronic formats that cannot easily be accessed by screen readers. I would suggest the Town have text-formatted documents of all documents available as PDFs. Anywhere that a link to a document exists a user should have the availability to choose between PDF and text format of same document.

Once every document in PDF format has an equivalent text counterpart anyone with a screen reader can download and "read" that document.

## **3.8 Permits**

Permit applications for the Building, Health, and Fire Department are available at the following link <https://permits.westfordma.gov/#> which should be readable by screen readers. Permit fees are in PDF format only <https://www.westfordma.gov/1167/Permit-Fees>



A text version of this document should be listed to enable screen readers to have access to the permit fee schedule. The Board of Health has a description and fee listing but only in PDF format <https://www.westfordma.gov/DocumentCenter/View/515/Fees-for-Permits-and-Services-PDF?bidId=>

### **3.9. Grievance procedure**

<https://www.westfordma.gov/DocumentCenter/View/9449/ADA---Building-Department---Grievance-Procedure-10-2020>

The Grievance Procedure goes into detail on the steps a complainant must undertake to report a grievance and timelines of the process from the time a complaint is made through complaint resolution. The Grievance Procedure does indicate that all information will be kept on file for at least three (3) years.

Missing Information: Two items that were absent from the Grievance Procedure:

- a statement of confidentiality both to the person bringing the grievance along with the entire grievance process.
- no mention of protection against a party from retaliation. Retaliation of any type or form should not be tolerated and subject a person to dismissal.

### **3.10. Service Animal Policy:**

Westford does have an extensive Service Animal Policy taken directly from the ADA guidelines: <https://www.westfordma.gov/DocumentCenter/View/6469/Service-Animal-Guidelines?bidId=>

### **3.11. Emotional Support Animals**

#### **3.11.1. Emotional Support Animal and Employment Finding**

The Town of Westford lacks an Emotional Support Animal Policy. Emotional Support Animals (ESAs) are not well defined or regulated.

ESAs are not Service Animals as outlined in the ADA. The only definition of a Service Animal is found in Title II and Title III of the ADA which apply to State and Local Government services, programs and activities, and activities and Public Accommodation specifically.

Under Title I employment provision, you can't find a definition of a service animal or emotional support animal. If you search for reasonable accommodation under Title I to see if there is any mention of permitting an employee to bring an ESA to work, nothing is mentioned. Contacting the Job Accommodation Network (JAN) also fails to shed any light on the issues of ESAs in the workplace. Nothing exists in the regulations that addresses ESAs as



a workplace accommodation. The written guidance from the EEOC the Federal Agency that enforces Title I makes no mention of ESAs.

ESAs can conservatively be considered as one form of workplace accommodation. Following the guidelines for accommodations (modifying a workplace policy) assuming the Town has a no-animal policy outside of Service Animals. An example would be animals might be barred from the Emergency Room where the animal might impact the level of care.

1. The Town could request medical documentation if the disability and need for accommodation are not obvious or already verified. This step is optional, but employers are allowed to request medical documentation when an employee makes an accommodation request.
2. Under the ADA, employers only have to consider accommodations that are needed because of a disability.
3. The best way to determine whether to allow the employee to bring an emotional support animal to work is to allow it on a trial basis and see if it works. Employers who do this often make a written agreement with the employee that there will be a trial period, how long it will last, and what factors might end the trial period early. For example, if the emotional support dog shows any sign of aggression or if the employee cannot keep the animal quiet or under control, the employer will immediately end the trial period and deny the request.

The use of animals to help overcome disability-related symptoms is a growing trend, and it's not just dogs; it's all types of animals. It's been 34 years since the signage of the ADA and this topic is still evolving.

### **3.11.2. Identifying the type of animal**

There are different steps and rights depending on whether an animal is a service animal, an emotional support animal (ESA), or a pet, so it is important to start by evaluating what sort of animal is involved.

#### **Is it a dog?**

Only dogs and miniature horses can be a service animals. So, if the animal is not a dog (or, in rare cases, a miniature horse), it can only be an emotional support animal or a pet.

#### **Is the dog a service animal?**

To find out whether a dog is a service animal, there are two standard questions someone can ask the animal owner to gather information without being too intrusive:

1. **Is the dog a service animal required because of a disability?**
2. **What work or task has the dog been trained to perform?**



If the answers indicate that the dog performs actions that help mitigate the symptoms or limitations of a disability, then it is considered a service animal.

Note that staff should ask no more questions than needed to get the required information:

- If it is obvious that the dog is a service dog (such as a guide dog), the employer should not be asking about it.
- If the person has an obvious disability but it is not obvious whether the dog is a pet or a service animal, staff can still ask the two questions.
- An individual with a disability accompanied by a service animal may not be asked to:
  - Provide documentation of a disability,
  - Answer questions regarding their disability, or
  - Have the service animal demonstrate its work.

The law requires staff to take the individual at their word. If the answers do not provide enough detail for staff to determine if the animal meets the definition of a service animal, they may ask questions to clarify.

For example, if the animal owner answered, "My dog helps me with anxiety," that could be an emotional support animal or a service animal, so staff could ask clarifying questions.

Once an adequate answer has been given, further questions might be seen as harassing and should be avoided. The process is easier if service animal owners provide enough detail to indicate that their animal takes specific disability-related actions in response to a command/signal.

### **3.11.3. Is it an emotional support animal or a pet?**

If the animal is not a dog, or it is a dog but does not take specific actions to mitigate the symptoms/limitations of a disability, then it is not a service animal.

If there is a disability-related need for the animal to provide comfort and support, then it is an emotional support animal.

If the individual does not have a disability (note many disabilities are not obvious) or does not have a disability-related need for the animal, then the animal can usually be considered a pet.

### **3.11.4. Certification**

Assistance animal owners in Massachusetts are not required to possess any certification or identification.

In recent years there has been a proliferation of websites offering service animal and ESA certification, registration, or identification cards/vests. However, the Department of Housing and Urban Development (HUD) considers these items as insufficient documentation



to support a reasonable accommodation request. There is not currently any recognized official registry or certification program for service animals or emotional support animals.

All dogs, whether pets or assistance animals, need to be registered with their town/city, but there is no official registry of assistance animals.

### 3.12. Contract Language

#### Contract Language

According to the Town of Westford, where required by statute, the Town includes all appropriate language.

Where forms used for bids and proposals, non-discrimination language should be included if not already part of the form itself. The following language should be included on all bids and proposal solicitations:

*Each successful Applicant shall ensure that every contract or contract for goods or services shall contain a provision prohibiting discriminatory employment practices by contractors, sub-contractors, and suppliers of goods or services based on race, color, religion, national origin, ancestry, age, sex, disability, status as a veteran, military service, sexual orientation, gender identity or expression, or any other basis prohibited by law. The non-discrimination provision shall require contractors and suppliers of goods or services to give written notice of their commitments under 760 CMR 47.07 to any labor union, association, or brotherhood with which they have a collective bargaining or other agreement.*



## APPENDIX

### A 1.0. Town Questionnaire and Responses

POLICY QUESTIONNAIRE		
	YES	NO
<b>NONDISCRIMINATION</b>	YES	NO
Does the Town Have a Nondiscrimination policy?	Yes	
If Yes, please attach copy of policy	attached	
Does the Town have an investigatory process in the event of someone claiming discrimination?	yes - included in policy package above	
If Yes, please attach a copy of the policy including timelines from the initial complaint through final resolution and settlement	See 1a.	
Are records kept of every discrimination case made to the city or town for at least 3 years?	Yes per policy	
If records are kept less than 3 years or greater than 3 years, please indicate the number of years discrimination lawsuit records are retained.	N./A	
Do city or town contracts contain non-discrimination language as part of the agreement?	Where required by statute, the Town includes all appropriate language.	
If Yes, list the contract type and include a blank or redacted copy of that contract	Attached standard Town contract.	



<b>ACCOMMODATION POLICY</b>	YES	NO
Does the city or town have a Reasonable Accommodation policy?	Yes	
If Yes, please provide a copy of the Reasonable Accommodation policy and procedures on who will be contacted and timeframe to address accommodation.	Included in Public Notice	
How is the city or town's Reasonable Accommodation policy communicated to the public?	Public Notice is posted to the Town's website, but not easy to find. Recommend a main landing page be created and all ADA-related information be available on it. Ideally, all should be within 1 click of main landing page.	
How long are records retained for Reasonable Accommodation requests?	In accordance with Massachusetts Public Records Laws.	
<b>MODIFICATION POLICY</b>	YES	NO
Does the city or town have a Reasonable Modification Policy?	Yes.	
If Yes, please provide a copy of the Reasonable Modification policy and procedures on who will be contacted and timeframe to address modification.	Included in Public Notice	
How is the city or town's reasonable Modification policy communicated to the public?	Posted to Town's website. Posted on bulletin boards.	
Does the city or town have a charge policy for Accommodations or Modifications?	Public Notice states there is no charge for any reasonable accommodation.	



Does the city or town retain a list of approved Reasonable Accommodation or approved Reasonable Modification requests, denials of Reasonable Accommodations or Reasonable Modifications and documentation behind denials\?	Not in a separate list, but all records are retained per Massachusetts Public Records Laws.	
<b>GRIEVANCE PROCEDURE</b>	YES	NO
Does the city or town have a Grievance Procedure?	Yes	
If Yes, please provide a copy of the Grievance Procedure and timeframe from initial complaint through resolution. Be sure to include titles of individuals who are responsible for each step of the process from initial complaint through resolution and settlement.	Attached as 14a.	
Are records kept of all grievances, decisions and resolutions?	Yes.	
<b>TRAINING</b>	YES	NO
Does the City or Town offer disability training?	Yes	
If Yes, please provide a listing of all disability training, a description of the training material, when offered (initial onboarding), frequency (once, annually) and if attendance is mandatory.	Rec Dept and all public safety departments offer training.	
<b>AUXILIARY AIDS POLICY</b>		
Does the city or town have a policy around auxiliary aids and Communication Services?	Yes	
If Yes, please provide a copy of the Auxiliary Aids and Communication Services policy	See Public Notice	
Does the city or town have a policy on scheduling ASL	We include the notice on all agendas and public meeting	



interpreters for meetings or city or town events?	postings; see sample agenda (attached)	
If Yes, please provide details around the policy to schedule ASL interpreters including timeframes for requests	The Town utilizes the CART and ASL referral service offered by Massachusetts Office on Disabilities	
How are requests for ASL services processed for town meetings, board and commission meetings and town services or presentations?	The Town maintains a dedicated email address, accessibility@westfordma.gov, for all accommodation requests. This email goes to the ADA Coordinator, COD Chair, and Assistant Town Manager	
How much lead time is required to request ASL services?	This depends on event.	
Are town meetings captioned to enable individuals with disabilities or non-English speakers the ability to understand proceedings?	Yes, via YouTube platform and Zoom captioning programs. Westford CAT has procured advanced captioning for all public meetings that are broadcast.	
Are request for alternative formats of written materials and communications available on demand?	Yes - See Public Notice	
Do common forms used by the city or town available in languages other than English where communication with the public is concerned?	No.	
Do all city and town forms exist in Large Print or braille upon demand?	Certainly not all. We have most forms available in editable form in which fonts can be enlarged.	
<b>UNDUE HARDSHIP</b>	YES	NO
Does the city or town have an undue hardship policy?	<b>Unclear what this means.</b>	
<b>SERVICE ANIMALS, EMOTIONAL SSUPPORT ANIMALS, AND THERAPY ANIMALS</b>	YES	NO



Does the city or town have a policy concerning Service Animals?	Our Public Notice states that service animals are allowed.	
If Yes, please attach the policy	See Public Notice	
Does the city or town have a policy concerning Emotional Support Animals?	No	
If Yes, please attach the policy		
Does the city or town have a policy concerning Therapy Animals?	No	
If Yes, please attach the policy		
<b>DISABILITY ETIQUETTE</b>	YES	NO
Does the city or town conduct disability training and disability etiquette training of any type?	No	
How often is this training conducted?	n/a	
Does the city or town have policies and procedures around direct threat?	No.	
If Yes, Attach a copy of the policy to the end of this document	n/a	
How are disabled individuals portrayed in advertising?	n/a	
Does the town have a Disability Commission?	Yes.	
If the city or town has a Disability Commission, is the city or town's Disability Commission ACTIVELY INVOLVED in the review and approval of all changes impacting the disabled population residing within that city or town/.	No. The DOC is not solicited for feedback on building projects or other programmatic changes as a matter of policy or practice.	



Does the city or town actively seek out the advice of local disabled advocates when considering programs offered, updates to town infrastructure and changes to policies that have a direct impact on those with disabilities residing in the community?	No	
Does the city or town adhere to the standard "Nothing About Us Without Us?" and actively seeks out local or regional disability advocates gain feedback prior to implementing programs or events?	The Town does include the COD in certain events, most specifically in providing support for Town Meeting	
Have disability advocates been part of the advisory process when town processes and procedures are developed and established impacting individuals with disabilities?	No	
Within the city or town are procedures in place to identify, address, and correct safety and access issues reported by individuals regardless of ability?	Identify, no. Address and correct, yes. Town seems to do well at handling complaints.	
<b>PROGRAM ACCESS</b>	YES	NO
Provide a listing of all programs and services offered by the City or Town to the public. Remember to include seasonal services, training opportunities, and all other events conducted by the town or city. Be sure to list and include services, programs and events offered by schools, Fire, Police, Emergency Services and any programs or services which the town contracts out to have performed).	See list provided to Direct Access and Town website.	



When program access issues are identified are solutions documented and put in place for the future?	Yes	
Do programs or services offered by the city or town have any prerequisites or prequalification's required prior to participating in such programs or activities? Please list the program, services, events, activities and provide a list of the pre-requisites on a program-by-program basis.	See list provided to Direct Access and Town website.	
What programs and services does the city or town run and/or provide? (Please list all programs and services provided by the city or town. This includes all programs, services and events or training classes offered by the city or town itself, or by schools, Fire, Police, Emergency Services and any programs or services which the town contracts out to have performed).	See list provided to Direct Access and Town website.	
Are policies in place to prevent discrimination based on an applicant's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information, prior drug use, AIDs, and incarceration?	See Public Notice and Non-Discrimination	
Are city equipment, furniture, and technology purchases reviewed to determine if they comply with accessibility standards?	Yes	
<b>LAW ENFORCEMENT</b>	YES	NO



What are the law enforcement policies involving questioning, arrest, and incarceration of individuals with disabilities?	See Policy PP. 1.13: Section 2: Competency- The suspect's competency is judged by an officer prior to questioning based on circumstantial observations. (p. 7)	
Is disability Civil Rights training in the area of law enforcement provided to officers or at the department level?		No
When arrests are made how are medical appliances handled, transported, or stored (wheelchairs, walkers, scooters, etc.)?	See Policy PP 3.01: Section G, 2: Sick, Injured, or Handicapped Detainees- Officers will make reasonable accommodations when transporting handicapped detainees. Any wheelchairs, crutches, prosthetic devices and medication should be transported with, but not in possession of the detainee (p. 12)	
If communication systems and phone calls are allowed, does the police department have TTY or another form of system to enable someone who is Deaf to effectively communicate and not be in violation of their rights?	Yes E-911 system allows access to TTY. 24 Hour After Hours Hotline through MCDHH 800-249-9949 for TTY or interpreter services for medical, mental health or legal emergencies.	
How are medication needs dealt with after arrest?	See Policy PP 3.04: Section F, 4 Medication- Detainees are permitted to self-administer any necessary medication, over-the-counter or prescription, provided that the administration of the drugs is requested by the detainee (p.6)	



When an officer gives information to a person with a communication disability, how can they ensure that what is stated is understood?		
Have officers been trained in communication techniques for the following disabilities:		
Vision Impairments		No
Deaf, Hard of hearing, and Speech Impairments		No MCDHH Placard in Cruisers and Booking (see attached)
Developmental Disabilities	Yes In-Service 2022: Responding to Emergencies Involving the Mentally Ill. PP 1.16 Mental Health Issues/Individuals in Crisis. CIT Training (see attached topics covered in training).	
Traumatic Brain Injury		No
Post-Traumatic Stress Disorder	Yes Numerous Officers certified in Crisis Intervention Team (CIT) training. Specialized 40 hour training focusing assisting individuals with mental and physical impairment (see attached topics covered in training)	
Learning Disabilities		
Mobility Impairments		No
Multiple Chemical Sensitivities		No



Mental Disorders		
Competing Disabilities		No
Is there enough space in a holding cell to permit the entrance of someone in a wheelchair?	Yes	
Does the holding cell allow an individual in a wheelchair to make a 360 degree turn?	Yes	
Do detention cells contain toilets with grab bars?	<i>(per Mike E.) grab bars are exempted from ADA as they present a risk of suicide by strangulation/hanging</i>	No
Can someone in a wheelchair navigate under the lavatory area?	Yes	No
Are mattresses available for inmates with disabilities who must remain overnight in the Detention Cells?		No
<b>EFFECTIVE COMMUNICATION</b>	YES	NO
Does the Town/Department/Board know how to provide the following for people who are deaf or hard of hearing?		
Sign language, oral, and cued speech interpreters	Available upon request with notice	
Video remote interpreting (VRI) services		No
Computer-assisted real-time transcription (CART) service	Available upon request	
Assistive listening devices	Yes	
Open and closed captioning of video	Yes	
Real time captioning of television programs	Yes	



Does the Town/Department/Board know how to provide documents in the following formats for people who are blind or visually impaired and others with print disabilities:		
Braille	Available upon request	
Large print	Available upon request	
Audio recordings	Available upon request	
Accessible electronic formats that that can be accessed by screen reading software, for example, documents in plain text or HTML	Available upon request	
Screen reader software installed on a computer that is used by the public, for example in a library	Yes	
Magnification software installed on a computer that is used by the public, for example in a computer lab?	Yes	
<b>POLICIES AND PROCEDURES</b>	YES	NO
Does the Town/Department/Board have a policy or procedure to handle request for auxiliary aids and services?		
Are employees and officials aware of the Town/Department/Board's obligation to provide auxiliary aids and services?	Yes	
Do employees, Board Members, and officials know how to arrange for auxiliary aids and services? (Arrangements could be made directly through an ADA Coordinator or another staff person)	Yes	



Does the Town/Department/Board give primary consideration to the person with a disability when determining what type of auxiliary aid or service to provide?	Yes	
Are employees, Board Members, and officials aware that it is inappropriate to request that family members and friend of people who are deaf to serve as sign language interpreters except in an emergency if the individual wants the family member or friend to interpret and its appropriate to do so?		no
Are employees, Board Members, and officials aware that a companion of a program participant has the right to auxiliary aids and services if the companion has a communication disability and is an appropriate person with whom the public entity should or would communicate?		no
Are captions and audio description provided on videos and television programs the Town/Department/Board produce s and videos on its website?	yes	
Does the Town/Department/Board have a policy or procedure for determining if an auxiliary aid or service would be an undue financial and administrative burden?		no
<b>TELECOMMUNICATIONS</b>	YES	NO



<p>. Do employees, Board Members, and officials know how to respond to telephone calls made through Video Relay Services and Telecommunication Relay Services so that calls are responded to in the same manner as other telephone calls?</p>	<p>Yes</p>	
<p>Where telephones are available to the public for making outgoing calls, such as in hospital waiting rooms, are TTYs available for people with hearing and speech disabilities?</p>	<p>N/A</p>	
<p>Do telephone emergency services, including 911, provide direct access to people who use TTYs and computer modems?</p>	<p>Yes</p>	
<p>Do forms exist languages other than English, in large print and braille formats upon request?</p>	<p>Large print, braille - yes, they can be provided. Unclear how other languages are relevant here.</p>	
<p>How is disability accommodations outlined in employee manuals?</p>	<p>See provided Personnel Policies</p>	
<p>What current training around disabilities occurs and what additional training is needed? Does the town offer effective communication or disability etiquette training on an annual basis or is this a one and done deal? How is the training delivered (in what format)? In person? online? If accommodation is needed for someone who is blind or deaf how is that addressed?</p>	<p>See provided Personnel Policies</p>	



Does the town request identification of disability as part of the employment process in the form of self-identification? If so, is this done prior to, or after an employment offer is made or does the town save this and ask about disabilities as part of the in orientation/onboarding process?	See application	
<b>VOTING</b>	YES	NO
Are polling places identified on the town's website?	yes	
Are accessible entrance locations of polling places identified on the town's website?		no
Are all places for voting accessible"	yes	
Is off-street parking provided to voters?	yes	
Do designated accessible parking spaces with access Aisles exist?	yes	
Is there at least one accessible "Van Space" among the accessible parking spaces?	yes	
Does the area for voting have a passenger drop off space?	yes	
Are accessible entrances identified?	yes	
Does the accessible entrance contain a sign with raised lettering and braille to assist blind and low vision voters?		no
Does the town website contain accessibility information about each polling location?		no
Are poll workers available to assist an individual with accessing and if possible voting should they require it?	yes	



Does the town have an operating automark machine at each voting location	yes	
is assistance available to those who need it if requested such as someone who is blind, who needs choices or ballot describe to them	yes	
Do ballots exist in alternative formats large print or braille or in languages other than English?		No
<b>FIRE AND EMERGENCY SERVICES</b>	Yes	NO
Do Emergency Service personnel receive training around how to communicate with someone with disabilities?	X As part of initial training as well as ongoing continuing education	
Does the city 911 system have reverse calling and TTY capabilities?	X State 9-1-1 system has built-in TTY. As for reverse calling, that is a little ambiguous. 9-1-1 has the ability to "recall" or call any number back. It seems as though the question is confusing the trademarked product "Reverse911™" with 9-1-1 or NexGen 9-1-1 which is the system used throughout the State for receiving 9-1-1 calls. To the point of reverse or emergency notifications, Westford does have RAVE™ which is an emergency notification system, similar to "Reverse911™".	
How do emergency services personnel know that a residence has a disability and the nature of the disability?	Residents through the State911 Department, have access to submit a disability indicator form to the 911, the information though limited is entered into the caller info and does appear on the 911 screen for the call taker to see and be aware someone at that address has that disability.	



	Additionally, the town uses Smart 911, a part of the RAVE™ system that allows residents to opt in and create an account and voluntarily enter specifics about themselves including disabilities. Lastly responders have the ability to also create a site file for known issues at an address which would appear to the dispatchers when sending a response to that specific address.	
Does the town maintain lists of individuals with disabilities on a disability indicator form?	See above	
If so, is this information shared with emergency services?	Through IMC site files (if resident offers/agrees)	
Have fire and emergency personnel been trained in communication techniques for the following disabilities:	X During initial provider training as well as ongoing continuing education.	
Vision Impairments	X	
Deaf, Hard of hearing, and Speech Impairments	X	
Developmental Disabilities	X	
Traumatic Brain Injury	X	
Post-Traumatic Stress Disorder	X	
Learning Disabilities	X	
Mobility Impairments	X	



Multiple Chemical Sensitivities	X	
Mental Disorders	X	
Competing Disabilities	X	
Do emergency services have assistance or personnel trained in all high-rise buildings around evacuation, refuge areas, means of egress, floor warders, alternates, responsibilities, training with disabilities of various types,		X
Are disabled individuals involved in emergency planning, drills, and debriefing ?		X
How are medication needs handled in emergency shelters and shelter-in-place events?	Handled by the individual	
How is assistance for basic bodily functions handled if the person is alone and without family or friends?	The council on aging is able to assist residents with access to services.	
Do areas of refuge have communication facilities set up for Deaf or non-verbal individuals in addition to auditory individuals?		X
Do elevators have means to communicate if a person is trapped or with loss of power?	X	
Have all such scenarios such as fire, flood, earthquake, terrorist attack, mass shooting, biological, chemical or nuclear hazards, been included as part of the emergency plan for the town, and how are individuals with	X In the CEMP	



disabilities treated in each scenario?		
Has each scenario type been practiced without prior notice under real-life timeframes and circumstances?		X
Do emergency personnel have knowledge and training in operating feeding systems for those who require it?		X
Are evacuation plans in place with attention paid to accessible vehicles, drivers, fuel, securement systems, and accessible destinations other than hospitals?	X	

## A 2.0. Town of Westford Policy Copies

Town of Westford Policies

### A 2.1. Service Animal Guidelines

<https://westfordma.gov/DocumentCenter/View/6469/Service-Animal-Guidelines>

### A 2.2. Remote Participation Policy

<https://www.westfordma.gov/DocumentCenter/View/1030/Boards-and-Committee-Handout-Booklet-PDF?bidId=>

### A 2.3. Notice of Non-Discrimination

<https://www.westfordma.gov/DocumentCenter/View/9448/ADA---Building-Department---Notice-of-Non-Discrimination-10-2020>

## TOWN OF WESTFORD

### Notice Under the Americans with Disabilities Act

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the Town of Westford will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.



**Employment:** The Town of Westford does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Employment-related complaints involving a town facility not accessible to persons with disabilities should be directed to:

Pamela Hicks  
Director Human Resources  
55 Main Street Westford, MA 01886  
(978) 399-2915

**Effective Communication:** The Town of Westford will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the Town of Westford's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** The Town of Westford will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Town of Westford's offices, where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the Town of Westford, should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the Town of Westford to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the Town of Westford is not accessible to persons with disabilities should be directed to:

Henry Fontaine ADA Coordinator / Building Commissioner  
55 Main Street  
Westford, MA 01886  
(978) 692-5527

The Town of Westford will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.



## A 2.4. ADA Grievance Procedure

<https://www.westfordma.gov/DocumentCenter/View/9449/ADA---Building-Department---Grievance-Procedure-10-2020>

### Grievance Procedure

#### Town of Westford

<https://www.westfordma.gov/>

55 Main Street

Westford, MA 01886

Tel: 978-897-2927

## TOWN OF WESTFORD

### Grievance Procedure under the Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Town of Westford. The Town's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request. The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

#### **Building Related Complaints:**

Henry Fontaine

ADA Coordinator/Building Commissioner

55 Main Street Westford, MA 01886

(978) 692-5527

#### **Employment Related Complaints:**

Pamela Hicks

Director of Human Resources

55 Main Street

Westford, MA 01886

(978) 399-2915

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or his/her designee will respond in writing, and where appropriate, in a format accessible to the



complainant, such as large print, Braille, or audio tape. The response will explain the position of the Town of Westford and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator or his/her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Town Manager or his/her designee.

Within 15 calendar days after receipt of the appeal, the Town Manager or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Town Manager or his/her designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator or his/her designee, appeals to the Town Manager or his/her designee, and responses from these two offices will be retained by the Town of Westford for at least three years.

## **WESTFORD POLICE**

The comments from the Law Enforcement section of the questionnaire concerning the lack of communication policies for visually impaired and traumatic brain injury individuals.

Officers should speak slowly and clearly using simple language for an individual with a traumatic brain injury as the individual might have difficulty understanding, responding or expressing themselves due to cognitive challenges.

The best way for the Police Department to communicate with someone who is blind or visually impaired is to speak directly to them in a clear, calm voice providing detailed descriptions of their surroundings and any action being taken. The officer should ask if the individual requires guidance and the manner in which to guide them. Use a clock face type of reference for movement. "We will move forward at 12 o'clock, etc." Don't just grab the person by the hand or arm. Permit them to instruct you on the best way to lead them as a sighted guide.

## **WESTFORD FIRE/EMERGENCY SERVICES**

The only concern on the responses from Fire and Emergency Services was the lack of communication equipment within Areas of Refuge within buildings. According to 5211 CMR 20.00 Accessible Route:

### ***20.12 AREAS OF RESCUE ASSISTANCE***

***20.12.4 Two-way Communication:*** A method of two-way communication, with both visible and audible signals, shall be provided between each area of rescue assistance and the primary entrance to the building. The fire department or appropriate building official may approve a location other than the primary entrance to the building. Any operable mechanism shall comply with 521 CMR 39.00: CONTROLS



**20.12.5 Identification:** *Each area of rescue assistance shall be identified by a sign that states "area of rescue assistance" and displays the international symbol of accessibility. The sign shall be illuminated when exit sign illumination is required. Signage shall also be installed at all inaccessible exits and where otherwise necessary to clearly indicate the direction to areas of rescue assistance. In each area of rescue assistance, instructions on the use of the area under emergency conditions shall be posted adjoining the two-way communication system.*

### **A.3.0. Police Department Communications Policy**

While the Police Department does have training on communicating with individuals with disabilities, there does not appear to be a policy specific to that in the policies concerning communications between officers and individuals with different forms of disability. This model communication policy is being attached as a guide to processes and procedures that may be introduced and incorporated in addition to initial training provided.

<https://www.Westford-ma.gov/Westford-police-department/pages/policyproceduresorders>

#### **MODEL POLICY FOR LAW ENFORCEMENT**

##### **Communicating with people who are deaf or hard of hearing.**

#### **Overview**

It is the policy of this law enforcement agency (Agency) to ensure that a consistently high level of service is provided to all community members, including those who are deaf or hard of hearing. Law Enforcement have specific legal obligations under the Americans with Disabilities Act [*insert the following text if your agency receives financial assistance from the Federal government:* and the Rehabilitation Act] to communicate effectively with people who are deaf or hard of hearing. To carry out these policies and legal obligations, Law Enforcement should instruct its officers and employees as follows:

- People who are deaf or hard of hearing are entitled to a level of service equivalent to that provided to other people.
- Law Enforcement will make every effort to ensure that its officers and employees communicate effectively with people who are deaf or hard of hearing.
- Effective communication with a person who is deaf or hard of hearing involved in an incident -- whether as a victim, witness, suspect, or arrestee -- is essential in ascertaining what actually occurred, the urgency of the matter, and type of situation.
- Various types of communication aids – known as “auxiliary aids and services” – are used to communicate with people who are deaf or hard of hearing. These include use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of an assistive listening system or device to amplify sound for persons who are hard of hearing; or use of a qualified oral or sign language interpreter.



- The type of aid that will be required for effective communication will depend on the individual's usual method of communication, and the nature, importance, and duration of the communication at issue.
- In many circumstances, oral communication supplemented by gestures and visual aids, or an exchange of written notes will be an effective means of communicating with people who are deaf or hard of hearing. In other circumstances, a qualified sign language or oral interpreter may be needed to communicate effectively with people who are deaf or hard of hearing. The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter will be required for effective communication. For example:
  - If there has been an incident and the officer is conducting witness interviews, a qualified sign language interpreter may be required to communicate effectively with someone whose primary means of communication is sign language. A qualified oral interpreter may be required to communicate effectively with someone who has been trained to speech read (read lips).
  - If a person is asking an officer for directions to a location, gestures or an exchange of written notes will likely be sufficient to communicate effectively.
    - To serve each individual effectively, primary consideration should be given to providing the type of communication aid or service requested by the individual. Officers should find out from the person who is deaf or hard of hearing what type of auxiliary aid or service he or she needs. Officers should defer to those expressed choices, unless:
      - there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person who is deaf or hard of hearing; or
      - doing so would fundamentally alter the nature of the law enforcement activity in question or would cause an undue administrative or financial burden; only the Agency head or his or her designee may make this determination.
- The input of people who are deaf or hard of hearing who are involved in incidents is just as important to the law enforcement process as the input of others. Officers must not draw conclusions about incidents unless they fully understand -- and are understood by -- all those involved, including people who are deaf or hard of hearing.
- People who are deaf or hard of hearing must not be charged for the cost of an auxiliary aid or service needed for effective communication.

#### **ON-CALL INTERPRETIVE SERVICES**

- Law Enforcement will maintain a list of sign language and oral interpreting services that are available (on-call 24 hours per day) and willing to provide qualified interpreters as needed. Each of these services will be chosen after having been



screened for the quality and skill of its interpreters, its reliability, and other factors such as cost. The Agency will update this list annually.

- A qualified sign language or oral interpreter is one who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Accordingly, an interpreter must be able to sign to the deaf individual (or interpret orally to the person who speech reads) what is being said by the officer and be able to voice to the officer what is being signed or said by the deaf individual. The interpreter must be able to interpret in the language the deaf person uses (e.g., American Sign Language or Signed English) and must be familiar with law enforcement terms and phrases. Because a qualified interpreter must be able to interpret impartially, a family member, child, or friend of the individual who is deaf may not be qualified to render the necessary interpretation because of factors such as professional, emotional, or personal involvement, or considerations of confidentiality. Additionally, although a “qualified” interpreter may be certified, a certified interpreter is not necessarily “qualified,” if he or she is not a good communications match for the deaf person (e.g., where the deaf person uses Signed English and the interpreter uses American Sign Language) or for the situation (e.g., where the interpreter is unfamiliar with law enforcement vocabulary).

#### **TTY AND RELAY SERVICES**

In situations when a nondisabled person would have access to a telephone, officers must provide persons who are deaf or hard of hearing the opportunity to place calls using a teletypewriter (TTY, also known as a telecommunications device for deaf people, or TDD). Officers must also accept telephone calls placed by people who are deaf or hard of hearing through the Telecommunications Relay Service.

#### **TECHNIQUES FOR OFFICERS TO COMMUNICATE EFFECTIVELY**

- Officers may utilize the following auxiliary aids, when available, to communicate effectively:
  - Use of gestures.
  - Use of visual aids.
  - Use of a notepad and pen or pencil.
  - Use of a computer or typewriter.
  - Use of an assistive listening system or device.
  - Use of a teletypewriter (TTY).
  - Use of a qualified oral or sign language interpreter.
- Officers must review and have a working knowledge of the publication [Communicating with People Who Are Deaf or Hard of Hearing: ADA Guide for Law Enforcement Officers](#). This document reviews how officers should communicate effectively in the types of situations officers will encounter.



## LAW ENFORCEMENT REFERENCE MATERIALS

While the Police Department does provide training where intellectual Disabilities, Developmental Disabilities and mental illness is concerned, I would suggest that Town of Westford and the Police Department review the following materials :

The Police Response to People with Mental Retardation Trainer's Guide published by the National Criminal Justice Reference Service

<https://www.ojp.gov/pdffiles1/Digitization/204210NCJRS.pdf>

Interactions with Individuals with Intellectual and developmental Disabilities, A Model Policy published by the International Association of the Chiefs of Police

<https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/int-dev-disability-pol.pdf>