

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

SUBJECT: <b>Inmates with Disabilities</b>	PAGE <u>1</u> OF <u>9</u>
	NUMBER: 64-DCM-02
RULE/CODE REFERENCE: 5120-9-04; 5120-9-27; 5120-9-52	SUPERSEDES: 64-DCM-02 dated 07/21/99
RELATED ACA STANDARDS: 4-4142; 4-4429; 4-4429-1; 4-4497 2-1020	EFFECTIVE DATE: December 28, 2011
	APPROVED: 

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to establish standard and consistent procedures by which an inmate with a disability is identified, assessed, and provided appropriate reasonable accommodations.

**III. APPLICABILITY**

This policy applies to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction and to the inmates under the Department's supervision.

**IV. DEFINITIONS**

**Americans with Disabilities Act (ADA)** - The act which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government, services, and telecommunications.

**Blind** - Having vision impairment not correctable to central vision acuity of 20/200 or a visual field no greater than 20 in the better eye.

**Deaf** - Having a profound hearing loss and relying primarily on visual communication such as sign language, lip reading, writing, and gestures.

**Disability** - Under ADA, a person has a disability if he/she:

1. Has a physical or mental impairment that substantially limits one or more of the major life activities of the individual;

2. Has a record of such an impairment; or
3. Is regarded as having an impairment.

Categories of disabilities are defined in Appendix A.

**Hard of Hearing** - Having a hearing loss of at least 40dB in the better ear unaided as measured by the Pure Tone Audiometry (PTA) or Speech Recognition Threshold (SRT).

**Major Life Activity** - Includes, but is not limited to, walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, and working. See Appendix A.

**Mobility Impairment** - Being confined to a wheelchair or being able to have independent mobility over only short distances or only on a level surface.

**Qualified Interpreter/Transliterater** - A sign language interpreter certified by the National Registry of Interpreters for the Deaf or the National Association of the Deaf (NAD) or a sign language interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary. The qualifications of an interpreter are determined by the actual ability of the interpreter in a particular interpreting context to facilitate effective communication. Qualified interpreters may include inmates, correctional staff including correction officers and volunteers when their skills meet the above definition and factors such as emotional or personal involvement and considerations of confidentiality will not adversely affect their ability to interpret “effectively, accurately, and impartially” or jeopardize the safety and security of the inmate.

**Reasonable Accommodation** - Any change or adjustment to an environment that permits a qualified person with a known disability to participate in a job, or to enjoy benefits and privileges of programs or services as an equal to everyone without a disability. A reasonable accommodation should not impose undue hardship on the institution.

**Relay Service** - A service used by people who are deaf, hard of hearing, or have a speech impediment when talking to people who do not have a TTY machine. A communications assistant answers and dials the number being called and facilitates communication between the TTY user and the telephone user. Voice Carry Over (VCO) and Hearing Carry Over (HCO) calls are also made through a relay service. A relay service allows communication between deaf/hard of hearing persons and hearing persons.

**Special Needs Assessment Committee** - A committee appointed by the Director to consider appeals from inmates who disagree with a decision of the Managing Officer on a request for accommodation, and to consider appeals from inmates who disagree with a decision of the Bureau of Classification concerning placement based on the inmate’s need for accommodation. The committee members shall include the Operation Support Center ADA Coordinator, a representative from the Bureau of Medical Services, a representative from the Bureau of Mental Health Services, and a representative from Legal Services. Appeals shall be addressed to the committee in care of the Operation Support Center ADA Coordinator for inmates.

**TTY/TDD** - Teletypewriter/telecommunications device for the deaf; both terms refer to an acoustic coupler that sends and receives teletypewriter signals over the telephone lines and enables telephone use for people who are deaf, hard of hearing, or who have a speech impediment by utilizing electronic transmission of text in place of audible communication.

**Undue Hardship** - Undue hardship means that the requested accommodation could not be provided without significant difficulty or expense or it fundamentally alters the nature or operation of the institution or program.

## V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction not to discriminate against individuals on the basis of disabilities in the provision of services, program assignments, and other activities, as well as in making administrative decisions, and to provide reasonable accommodation to inmates when a demonstrated need exists.

## VI. PROCEDURES

### A. Identification

1. Upon being received at a reception center, each inmate shall have a health evaluation and the results of the health evaluation shall be documented. The evaluation shall include screening for inmates with vision, medical, hearing, mobility, mental health, and intellectual disabilities and developmental disabilities. These evaluations shall be consistent with those outlined in Department Policies 68-MED-13, Medical Classification, and 67-MNH-02, Mental Health Screening and Assessment Activities.
2. Disabilities that become apparent after the reception process may be reported and documented when they become apparent.
3. Each inmate identified as having a disability covered under ADA shall be evaluated on an individual case-by-case basis and provided accommodation if requested and determined necessary, so long as the accommodation does not adversely impact security.
4. Upon the determination of any impairment needing an ADA accommodation, the accommodation shall be documented by medical staff at the reception center or parent institution. This documentation shall be placed in the inmate's medical or mental health file and scanned in the electronic unit file.

### B. Classification

1. Any inmate identified by the health care staff as needing special services because of a disability shall be provided reasonable accommodation as needed, as long as the accommodation does not adversely impact security. When the inmate is being considered for placement into an appropriate institution consistent with the inmate's security classification, the need for an accommodation shall be considered.
2. Current Department policies on medical, mental health and security classifications will be the primary tools used by the Bureau of Classification for placement of inmates with disabilities needing accommodation.

3. If an inmate disagrees with a placement decision of the Bureau of Classification based on the inmate's need for accommodation, the inmate may appeal the decision to the Chief of the Bureau of Classification consistent with Ohio Administrative Code 5120-9-52, Initial Classification of Inmates. The Chief of the Bureau of Classification shall then consult with the Special Needs Committee before making a final decision. The committee shall render a decision within thirty calendar days of receipt of the inmate's appeal.

### **C. Equal Access to Programs and Services**

1. The Managing Officer at each institution shall appoint an ADA Coordinator for inmates to assist the institution in assuring compliance with Title II of the ADA and to oversee training on the subject within the institution. The Director shall appoint an Operation Support Center ADA Coordinator who shall: (a) oversee training of the Operation Support Center staff and the institutional coordinators; (b) assist the institutional coordinators; and (c) assure ADA compliance within the Operation Support Center and the institutions.
2. The inmate orientation package and inmate handbook shall include an explanation of services available to inmates with disabilities. This shall include the procedures necessary to receive an accommodation and shall be in a form understandable to the inmate, regardless of any disability. Inmate orientation shall also identify the staff member who serves as the institution's ADA Coordinator for inmates. Signs explaining ADA shall be posted in areas frequented by inmates.
3. No inmate shall be denied access to any job based solely upon his/her disability; however, an inmate must be able to fulfill the essential job functions of any job assigned to him/her.
4. No inmate shall be denied access to any program assignment based solely upon his/her disability. However, any inmate having a disability must meet the same criteria for admittance to a program as any other inmate. An inmate needing a reasonable accommodation to attend a program shall be provided that accommodation based upon his/her individual needs, so long as the accommodation does not adversely impact security.
5. Services shall be available to each inmate regardless of the existence of any disability. Reasonable accommodations shall be made as needed to ensure access to services.

### **D. Accommodations**

Accommodations must be reasonable and not impose undue hardship on the institution. Possible accommodations may include, but not be limited to:

1. Providing programs in accessible areas.
2. Providing readers, large print materials, magnifiers, books on tape or Braille materials.
3. Providing ramps or elevators.
4. Providing handrails in showers and along stairways.

5. Providing seating in long hallways and in locations of long lines.
6. Providing accessible vehicles.
7. Providing amplifiers, visual repetition of audio announcements, and closed caption televisions.
8. Providing TTY's and relay services. Inmates using TTY's and relay services shall be allotted the normal number of telephone calls and three times the usual amount of time allowed for conversations. TTY's shall be purchased with printers to allow the usual monitoring of conversations. TTY's shall be provided not only to deaf inmates, but also to inmates with speech impediments and to inmates with a spouse, family member, or friend who is deaf and needs this accommodation to communicate. Medical verification from the spouse, family member, or friend must be provided before the inmate is provided the use of a TTY.
9. Providing visual and audible fire alarm systems.
10. Providing qualified interpreters/transliterators for programs including, but not limited to:
  - a. Regularly Scheduled Health Care Appointments and Programs\*
    - i. Medical
    - ii. Dental
    - iii. Visual
    - iv. Mental Health
    - v. Recovery Services
  - b. Parole Board Hearings\*
  - c. Educational Classes and Activities
  - d. Treatment and other Formal Programming
  - e. Rules Infraction Board Hearings\*
  - f. Criminal Investigations\*
  - g. Classification Review Interviews
  - h. Grievance Interviews
  - i. Adoption Interviews\*
  - j. Religious Services
  - k. Formal Investigations Conducted by Institution Staff\*
- \* Interpreting services for these programs may be provided only by qualified staff members or contract interpreters. If the deaf or hard of hearing inmate approves, a qualified inmate may otherwise assist if confidentiality is not violated or in case of emergency when another interpreter is unavailable. If the deaf or hard of hearing inmate approves the use of another inmate to interpret, the deaf or hard of hearing inmate must sign a statement waiving the right to an interpreter who is not an inmate. See Appendix B. Interpreters may be provided in person or through teleconferencing.
11. Providing opportunities to purchase items such as closed caption televisions and shake-awake alarm clocks through the commissary. Any such accommodations shall be provided in a manner consistent with institutional and departmental policies and security concerns. For example, closed caption televisions shall be provided in day rooms consistent with the duration and frequency of the other inmates in the same status within the institution. No inmate shall be provided access to a closed caption television if his/her status would not otherwise permit him/her access to a television.

12. When any person provides a service to an inmate, such as interpreting for the deaf or hard of hearing or reading for the blind or visually impaired, the person providing the service shall make a notation in the inmate's file stating the date, time, location and nature of the service provided. Such notation shall include the printed name of the person providing the service and that person's signature. If a contract interpreter from outside the Department is used, the staff member who is present when the interpreting service is provided shall be responsible for notifying the interpreter of the duty to make a notation in the inmate's file.

#### **E. Request for Accommodations**

1. Inmates who need an accommodation shall complete the Inmate Reasonable Accommodation Request form (DRC4267) and submit it to the institutional ADA Coordinator for inmates. The inmate's request shall be evaluated and considered based upon security concerns and the individual inmate's actual needs as verified by medical staff. Requests may be granted, denied or partially granted by providing an alternative accommodation. The ADA Coordinator's recommendation must be approved by the Managing Officer/designee. The decision shall be reported on the ADA Coordinator's Action section of the Inmate Reasonable Accommodation Request form (DRC4267), which will be returned to the inmate within ten working days unless further investigation is warranted. A copy of the decision shall be forwarded to the Operation Support Center ADA Coordinator for inmates.
2. If the inmate disagrees with the decision, he or she may appeal to the Special Needs Assessment Committee in care of the Operation Support Center ADA Coordinator for inmates.

#### **F. Training**

The Operation Support Center ADA Coordinator for inmates shall be responsible for training the institutional ADA Coordinators for inmates. The institutional ADA Coordinators for employees and inmates and the training officers shall work together to ensure that all institutional staff receives training on pertinent ADA disability issues. Such training shall include sensitivity training relative to interacting with inmates having these impairments, as well as a review of pertinent departmental and institutional policies.

#### **Related Department Forms**

Inmate Reasonable Accommodation Request      DRC4267

**APPENDIX A****PHYSICAL OR MENTAL IMPAIRMENT**

The United States Senate Report accompanying the Americans with Disabilities Act (ADA) defines “physical or mental impairment” as:

- (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

- Neurological
- Musculoskeletal
- Special sense organs
- Respiratory
- Cardiovascular
- Reproductive
- Digestive
- Genito-urinary
- Hemic and lymphatic
- Skin
- Endocrine

OR

- (2) Any mental or psychological disorder, such as:

- Mental retardation
- Organic brain syndrome
- Emotional or mental illness
- Specific learning disabilities

Senate Report 101-116, p. 116.

The Senate Report notes that the ADA makes no attempt to list all of the specific diseases, conditions or infections covered by the legislation that would meet the definition of physical or mental impairment because maintaining a comprehensive list would be impossible. A few examples cited are orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, infection with AIDS or HIV, past drug addiction and alcoholism. Senate Report 101-116, p. 22. Current illegal drug users are specifically excluded from the definition.

## **MAJOR LIFE ACTIVITIES**

Major life activities include, but are not limited to:

Caring for oneself  
Performing manual tasks  
Walking  
Seeing  
Hearing  
Speaking  
Breathing  
Learning  
Working

## **REGARDED AS IMPAIRED**

An individual is regarded as impaired if:

(1) He or she has an impairment which does not limit a major life activity, but is treated as disabled by the department

OR

(2) There is no impairment, but the person is treated as disabled by the department.

## **RECORD OF IMPAIRMENT**

An individual has a record of impairment if:

(1) He or she has a history of impairment

OR

(2) A record of having been misclassified as having an impairment

**APPENDIX B****INTERPRETER/TRANSLITERATOR WAIVER FORM**

I understand that, upon request, I have the right to a qualified interpreter/transliterater for certain programs. I further understand that, except in the event of an emergency, only a staff member or contract interpreter may provide interpreting services for regularly scheduled health care appointments and programs, Parole Board hearings, RIB hearings, criminal investigations, adoption interviews, and formal investigations conducted by institution staff.

I have chosen to have an inmate provide interpreting services and hereby waive the right to have a non-inmate interpreter provide such services.

I decline to have any interpreter present.

---

Inmate Name and Number (Print)

---

Inmate Signature and Number

---

Date