OFFENDERS WITH DISABILITIES

REVIEW/REVISION HISTORY

Effective: 9/1/98 DOC 490.050
Revised: 3/17/11
Revised: 6/10/13
Revised: 5/25/15
Revised: 4/25/17

SUMMARY OF REVISION/REVIEW:

I.C.1., IV.E.1.b. - Removed unnecessary language
IV.A.3.a., IV.E., IV.F.1.a., V.D. - Adjusted language for clarification
IV.B. - Added language for clarification
Added IV.B.1. that health services employees/contract staff will issue medically necessary devices/accommodations
Added IV.B.2. that offenders will receive a copy of the HSR
IV.C. - Added the ASR process
Added VI.A. that the facility Health Services Forms/Records Analyst will enter approved accommodations in the Comments For Custody section of the offender’s electronic file

APPROVED:

Signature on file 3/21/17
G. STEVEN HAMMOND, PhD, MD, MHA
Chief Medical Officer

Signature on file 3/30/17
KEVIN BOVENKAMP, Assistant Secretary for Health Services

Signature on file 04/03/17
JODY BECKER-GREEN, Secretary
Department of Corrections
POLICY

OFFENDERS WITH DISABILITIES

REFERENCES:

DOC 100.100 is hereby incorporated into this policy; ACA 4-4143; ACA 4-4144; ACA 4-4429; ACA 4-4429-1; ACA 4-4450; ACA 6A-01-1; ACA 6A-04; ACA 6A-04-2; DOC 420.250 Use of Restraints; DOC 550.100 Offender Grievance Program; 29 U.S.C. § 794(a); Americans with Disabilities Act of 1990; Accommodation Status Report (ASR) Protocol; Records Retention Schedule; Rehabilitation Act of 1973 Section 504(a)

POLICY:

I. The Department will not discriminate on the basis of disability when providing services, programs, and activities, and will ensure the rights of offenders with disabilities are addressed consistent with legitimate penological interests. [4-4429] Offenders with disabilities are those with identifiable disabilities as defined by federal law.

II. The Department will determine the appropriate accommodation based on barriers to effective participation/use by the offender, facility security and safety, accommodation effectiveness, and cost.

DIRECTIVE:

I. General Requirements

A. [4-4429-1] [6A-01-1] The Department will provide offenders access to:
   1. Qualified employees/contract staff familiar with the challenges faced by individuals with physical and/or mental impairments,
   2. Programs designed to educate and assist offenders with disabilities, and
   3. All legal requirements for the protection of offenders with disabilities.

B. Offenders with disabilities will be provided reasonable accommodation that allows participation in services, programs, and activities, which may include:
   1. Modifying policies, practices, or procedures, when reasonable,
   2. Removing barriers to access, and/or
   3. Providing auxiliary aids and services.

C. During new offender orientation, offenders will be provided the information on the Notice of Rights for Offenders with Disabilities (Attachment 1) using an effective means of communication.

   1. The notice will be posted or available for review in prominent places at each Department facility, including reception/intake areas, living units, and libraries.
D. Restraint of offenders with disabilities will be addressed per DOC 420.250 Use of Restraints.

E. Offenders will be searched consistent with prudent security practices and consideration for their specific disability. The Shift Supervisor will provide directions for searching an offender whose disability prevents a routine search.

II. Responsibilities

A. The appropriate Appointing Authorities will designate Americans with Disabilities Act (ADA) Coordinators for each facility or geographical area, who will facilitate local compliance with ADA requirements and Department policy.

B. The ADA Compliance Manager will train Prison and Community Corrections ADA Coordinators and monitor compliance with ADA requirements.

C. All facilities will develop emergency procedures for the rapid identification and safe evacuation of all offenders with disabilities. Offenders with disabilities will be instructed on emergency procedures specific to their needs.

   1. Employees will be trained regarding the evacuation of offenders with disabilities.

D. Employees/contract staff will effectively communicate information, announcements, procedures, and other directions to offenders with disabilities.

   1. ADA Coordinators or designated instructors will provide communication training for employees and contract staff in direct contact with offenders with disabilities.

III. Identifying Offenders with Disabilities

A. Reasonable efforts will be made to identify offenders with disabilities at Reception Diagnostic Centers and Work Releases as soon as possible after coming under Department jurisdiction.

   1. The identification process will be interactive and include employee/contract staff observations, offender reports, and/or documentation of an offender’s disability.

   2. Referrals will be made to health services employees/contract staff and/or ADA Coordinators for evaluation and determination of disabilities.
B. Offenders with disabilities who are housed in Department facilities are responsible for making their needs known to medical or classification employees/contract staff and/or the designated ADA Coordinator.

1. Employees/contract staff will refer offenders unable to make their accommodation needs known to the designated ADA Coordinator.

C. Offenders may be identified by the Department of Social and Health Services’ Developmental Disabilities Administration (DDA) as intellectually disabled and as eligible and enrolled in their services.

1. For Prison offenders identified as intellectually disabled by the DDA, the Counselor will complete an adaptive functioning review using DOC 13-457 Intellectual Disability Review at each regularly scheduled classification review.

IV. Accommodation Process

A. Information provided by the offender, health care providers, and/or others qualified to evaluate disability and accommodation needs will be used to identify reasonable accommodations.

1. The need for durable medical equipment or other accommodation for disability will be evaluated by health services employees/contract staff and ADA Coordinators, as well as the Community Corrections Supervisor (CCS) if applicable.

2. Safety and security concerns will take precedence when considering any accommodation and may result in the temporary or permanent suspension of any accommodation.

3. If the action needed to provide effective access would create an undue burden by fundamentally altering a service, program, or activity, or undue financial and administrative burdens on the Department, the action may not be required.

   a. Denials will be referred through the ADA Compliance Manager to the Secretary/designee, and the Department will investigate other means to provide effective access.

B. Health care providers will document a medically necessary device(s) or accommodation on a Health Status Report (HSR) in Offender Management Network Information-Health Services (OMNI-HS). The HSR will specify the duration of the accommodation, which should not exceed one year.
1. Health services employees/contract staff will issue medically necessary devices/accommodations.

2. The offender will be provided with a copy of the HSR.

C. Durable medical equipment that does not meet medical necessity criteria, but is medically appropriate to allow offenders to participate in programs, services, and activities may be issued as a reasonable accommodation for a disability per the Accommodation Status Report (ASR) Protocol.

1. The ADA Coordinator will:

   a. Consult with the offender’s health care provider to verify that a disabling condition requiring accommodation exists,

   b. Complete DOC 13-508 Accommodation Status Report and submit it to the Captain/senior custody officer for security considerations, and

   c. Scan the signed form and email to the ADA Compliance Manager.

2. The ADA Compliance Manager will:

   a. Chair the Accommodation Review Committee (ARC), which will review and approve, modify, or deny ASRs,

      1) The ADA Compliance Manager may temporarily approve an ASR until the ARC can consider it for approval.

      2) The ARC will include:

         a) ADA Coordinators who have submitted an ASR for consideration,

         b) A health care representative, if appropriate and requested by the ADA Coordinator,

         c) Program employee/contract staff if an ASR will affect his/her program or activity,

         d) Senior custody officer/designee when an ASR will be considered for his/her facility and s/he does not approve of the ASR for security reasons.
Policies for Offenders with Disabilities

(1) Safety/security concerns that cannot be resolved will be referred to the facility's Superintendent for a final determination.


3. ASRs will be valid for a maximum of one year unless specified by the ARC.

4. The offender will be provided with DOC 13-510 Accommodation Review Committee - Offender Notification and a copy of the ASR if approved.

D. Health Services Managers may permit offenders to retain medically necessary durable medical equipment and/or customized assistive devices upon transfer or release.

E. Durable medical equipment may be permanently removed only by order of a practitioner.

1. In Prison and Rap House/Lincoln Park Work Release:

   a. If the item presents a threat to safety and security, the Health Authority/designee will collaborate with the Superintendent/CCS on a decision regarding removal.

   b. The Chief Medical Officer and the Deputy Director or Work Release Administrator, as applicable, will resolve the issue if the Health Authority/designee and the Superintendent/CCS cannot come to an agreement.

2. In Work Releases other than Rap House/Lincoln Park, the CCS will make the decision regarding durable medical equipment removal.

F. Offenders have the option to decline any accommodation offered.

G. Facilities will develop a process to ensure employees/contract staff receive updated information regarding the specific needs of offenders with disabilities.

H. Temporary disabilities and/or accommodations will receive case-by-case evaluation and review.

V. Facility/Program Placement
A. Offenders with disabilities will be placed in facilities consistent with their health, safety, and security requirements. Housing for offenders with disabilities will be accessible and allow for interaction with other offenders. [6A-04]

1. Offenders with disabilities will not be precluded from placement in a minimum facility or Work Release based solely on their disability.

2. Programs and services will be available and accessible to offenders residing in the facility. [6A-04]

B. [4-4450] Offenders with disabilities will be allowed the opportunity to participate in programs, including work programs. They will be provided effective access and must be able to perform basic and/or essential functions of the work or program assignment.

C. Offenders with disabilities will receive education, equipment, and support necessary to perform self-care and personal hygiene in a reasonably private environment. [4-4144] [6A-04-2]

D. Appropriately trained individuals will be assigned to provide assistance to offenders with disabilities who are unable to perform activities of daily living. [4-4143]

VI. Documentation

A. The facility Health Services Forms/Records Analyst will enter approved accommodations noted on the ASR in the Comments For Custody section of the offender’s electronic file.

B. Records related to offenders with disabilities, including assessments of accessibility and compliance with the Americans with Disabilities Act, will be retained per the Records Retention Schedule.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Intellectual Disability. Other words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

Notice of Rights for Offenders with Disabilities (Attachment 1)

DOC FORMS:
POLICY

OFFENDERS WITH DISABILITIES

DOC 13-508 Accommodation Status Report
DOC 13-510 Accommodation Review Committee - Offender Notification
DOC 13-457 Intellectual Disability Review