


SUBJECT: Inmates with Disabilities	PAGE <u> 1 </u> OF <u> 7 </u>
	NUMBER: 64-DCM-02
RULE/CODE REFERENCE: 5120-9-04, 5120-9-27, 5120-9-52	SUPERSEDES: 64-DCM-02 dated 12/28/11
RELATED ACA STANDARDS: 4-4142, 4-4429, 4-4429-1, 4-4497; 2-1020	EFFECTIVE DATE: March 5, 2018
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

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 (DRC) and to the inmates under the DRC'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.

"Disability" is very broadly defined under both federal and state law. Questions regarding whether a certain impairment qualifies as a disability should be directed to the Division of Legal Services.

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 Bodily Function - Includes, but is not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. Major bodily functions also include the operation of an individual organ within a body system (e.g., the operation of the kidney, liver, or pancreas).

Major Life Activity - Includes, but is not limited to, eating, sleeping, standing, sitting, reaching, lifting, bending, reading, concentrating, thinking, communicating, interacting with others, walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, working, and the operation of major bodily functions.

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. In certain circumstances, as set forth below in Section VI.D.10, 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 and Reception (BOCR) 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 (BOMS), a representative from the Bureau of Behavioral Health Services (BOBHS), 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 (DRC) 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.
 - a. The health 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 Medical Protocol B-13, Evaluation for Functional Limitations Impacting Placement, DRC Policies 68-MED-13, Medical Classification, 67-MNH-22, Inmates with Intellectual Disabilities: Screening, Evaluation, Treatment and Re-Entry, and 67-MNH-02, Mental Health Screening and Assessment Activities.
 - b. Inmates determined at reception to have a hearing impairment shall be afforded a qualified interpreter during the reception process.
2. Disabilities that become apparent after the reception process and identified by health care staff at a parent institution shall be reported and documented as soon as they are recognized.

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. If an inmate has an obvious disability but has not requested an accommodation, staff shall initiate the reasonable accommodation process with the inmate, working with the inmate to identify any needed and appropriate reasonable accommodations.
4. Upon the determination of any impairment warranting possible ADA accommodation, health care staff shall notify the institutional ADA Coordinator of the need for possible accommodation by completing and forwarding a Referral to ADA Coordinator form (DRC3041).
 - a. This form shall be incorporated into the inmate's healthcare file by health care staff; and
 - b. This form shall be scanned into the electronic unit file by appropriate non-clinical staff.
5. Upon the determination of any specific learning disability warranting possible ADA accommodation, education staff shall notify the institutional ADA Coordinator of the need for possible accommodation by completing and forwarding a Referral to ADA Coordinator form (DRC3041).
 - a. This form shall be incorporated into the inmate's education file by education staff; and
 - b. This form shall be scanned into the electronic unit file by appropriate non-education staff.
6. Any non-clinical/non-education staff suspecting a disability warranting possible ADA accommodation may notify the institutional ADA Coordinator by completing and forwarding a Referral to ADA Coordinator form (DRC3041).

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 and every effort shall be made to place the inmate at the institution most suited to provide the necessary services.
2. Current DRC policies on medical, mental health and security classifications will be the primary tools used by the BOCR for placement of inmates with disabilities needing accommodation.

3. If an inmate disagrees with a placement decision of the BOCR based on the inmate's need for accommodation, the inmate may appeal the decision to the BOCR chief consistent with Ohio Administrative Code 5120-9-52, Initial Classification of Inmates. The BOCR chief shall then consult with the Special Needs Committee before making a final decision. The committee shall render a decision within thirty (30) 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 ensuring 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) ensure 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 with or without accommodation.
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/Serious Misconduct Panel Hearings*
 - f. Criminal Investigations*
 - g. Classification Review Interviews
 - h. Grievance Interviews
 - i. Adoption Interviews*
 - j. Religious Services
 - k. Formal Investigations Conducted by Institution Staff*
 - l. Reception*
- * Interpreting services for these programs may be provided only by qualified non-correctional staff members or contract interpreters. If the deaf or hard of hearing inmate approves, a qualified correctional staff member or inmate may otherwise assist in the case of an emergency, when another interpreter is unavailable, if confidentiality will not be violated by the use of a qualified correctional staff member or inmate. 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 A. 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 DRC 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 (10) 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/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, along with training officers, shall work together to ensure 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.

Attachments:

Appendix A INTERPRETER/TRANSLITERATOR WAIVER FORM

Related Department Forms:

Referral to ADA Coordinator	DRC3041
Inmate Reasonable Accommodation Request	DRC4267

APPENDIX A

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