



**STATE OF MONTANA  
DEPARTMENT OF CORRECTIONS  
POLICY DIRECTIVE**

Policy No. DOC 1.3.15	Subject: <b>AMERICANS WITH DISABILITIES ACT (ADA)</b>
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 4 and Attachment
Section 3: Human Resources	Effective Date: July 1, 2008
Signature: /s/ Mike Batista, Director	Revised: 03/11/2015

**I. POLICY**

The Department of Corrections will make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual, employee or member of the public, with a disability unless to do so would result in an undue financial or administrative burden, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the Department’s business.

**II. APPLICABILITY**

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

**III. DEFINITIONS**

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility or program operation and management.

Americans with Disabilities Act (ADA) Coordinator – The individual assigned from the Human Resources to facilitate ADA compliance for employees and the public.

Disability – A physical or mental impairment that substantially limits one or more of a person’s major life activities, a person who has a history of such an impairment, or a person who is perceived by others as having such an impairment.

**IV. DEPARTMENT DIRECTIVES**

**A. General Requirements**

1. The Department, as an employer, will provide equal opportunity in hiring and all other aspects of employment and reasonable workplace accommodations to qualified applicants and employees with disabilities.
2. The Department and contracted facilities or programs will provide visitors access to all public areas, services, and programs.

**B. Responsibility**

1. The Americans with Disabilities Act (ADA) coordinator will assist facility and program administrators’ compliance with the ADA and Montana Human Rights Act (MHRA). The ADA coordinator will be assigned from Human Resources to work with employees and the public.

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2. The ADA coordinator will have training in the Americans with Disabilities Act, Title I, affecting employment; and Title II, which requires equal access to state programs and facilities by individuals with disabilities.
3. The ADA coordinator, in coordination with the facility or program administrator, may designate a staff member at each facility or program to assist with the implementation of this policy.
4. All Department employees must recognize and take seriously all requests for disability accommodation, and any complaints or grievances involving disability discrimination or accessibility.

**C. Requests for Reasonable Accommodations**

1. An employee or member of the general public may request information or an accommodation by contacting the ADA coordinator verbally or in writing.
2. A request for accommodation is the first step in an interactive process between the individual and the ADA coordinator, or designee, to clarify the individual's request and to identify any appropriate reasonable accommodation.
3. When the disability is not obvious, the ADA coordinator, or designee, may request reasonable documentation of the disability. Reasonable documentation is information necessary to establish that an individual has a qualified disability. The individual may be asked to sign a release of information allowing the medical caregiver to respond to the Department. If the individual refuses to provide reasonable documentation, his or her request cannot be processed and a disability determination cannot be assessed.
4. Upon receipt of the necessary documentation establishing that the individual has a qualified disability, the individual and the ADA coordinator, or designee, will determine what accommodation(s) would be most effective and reasonable. The Department will make the final determination of the reasonableness of an accommodation.

**D. Complaints of Disability Discrimination**

1. When an employee, visitor, or other recipient of services provided by the Department believes that he or she has been subject to disability discrimination, he or she must report the allegation to Human Resources for prompt investigation and any appropriate actions.
2. Employees, visitors, or the general public will follow the complaint procedure outlined in the [Discrimination Complaint Form](#).
3. Requests, complaints, or grievances involving a disability issue should include specific facts, such as, person or persons involved, structure or barrier involved, the date, time, and place of the occurrence, what was done or said, and the names of any witnesses present.

**E. Response to Requests and Complaints**

1. Employees and designated personnel at contracted facilities and programs will immediately inform the appropriate ADA coordinator of any request, complaint, or grievance involving a disability-related accommodation or discrimination.

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2. Human Resources will act promptly to investigate and resolve all employee and public related ADA requests, complaints, and grievances.
3. A request may be denied if the accommodation would result in undue financial or administrative burdens, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the Department's business. After considering all resources, if a request is denied for these reasons, there must be a written statement outlining the reasons for the denial.

**F. Record-keeping Requirements**

1. The ADA coordinator will retain all documentation, including a [Discrimination Complaint Form](#), when necessary, pertaining to the request, grievance, or complaint and the ensuing investigation in a separate investigative file. If an employee is involved, this information will not become part of their personnel file.
2. The Department will maintain the confidentiality of all medical information, unless otherwise provided by law. The Department will only disclose information about the request internally on a need-to-know basis to personnel involved in making or assisting in the implementation of the reasonable accommodation or resolution of the grievance or complaint.
3. The ADA coordinator will maintain statistical data regarding complaints, grievances, or requests made pursuant to this policy and will prepare an annual report on ADA activities to the Human Resources director and Department director that includes successes, challenges, and recommendations.

**V. CLOSING**

Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable.

Questions concerning this policy should be directed to Human Resources. Copies of this policy directive may be posted on employee and public bulletin boards.

**VI. REFERENCES**

- A. 49-3-201 MCA; 49-3-205MCA; 49-3-209MCA; 49-4-101MCA; 49-4-202MCA;
- B. *Americans with Disabilities Act of 1990 enacted July 26, 1990, codified at 42 USC 12010, as amended*
- C. 2.21.4005, *Administrative Rules of Montana*
- D. *Montana Operations Manual, EEO, Nondiscrimination, and Harassment Prevention Policy*
- E. 4-4054, 4-4142; *ACA Standards for Adult Correctional Institutions, 4<sup>th</sup> Edition*
- F. 4-4429-1; *ACA Standards Supplement, 2008*

**VII. ATTACHMENTS**

[Discrimination Complaint](#)

[Fill-in Form](#)