



POLICY DIRECTIVE

Policy:	DOC 3.3.15 AMERICANS WITH DISABILITIES ACT (ADA) OFFENDER ACCOMMODATIONS
Effective Date:	03/11/2015 Page 1 of 7 with attachments
Revision Date(s):	12/12/2016; 08/5/2021; 08/29/2024
Signature/Title:	/s/ Brian Gootkin, Director

I. POLICY

The Department of Corrections will make reasonable accommodations to the known physical or mental limitations of an offender 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.

Continuous Accommodations – Accommodations that are constant, on a permanent or semi-permanent basis. Certain examples of accommodations are listed in *DOC 3.3.15 Attachment A: Accommodation Categories*.

Disability – A physical or mental impairment that substantially limits one or more of a person's major life activities, a person who has a record of such an impairment, or a person who is regarded as having such an impairment. See *Americans with Disabilities Act of 1990, 42 USC 12010*, as amended.

Major Life Activities – Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Offender Americans with Disabilities Act (ADA) Coordinator – The individual assigned to facilitate ADA compliance for offenders.

OMIS – Acronym for the Department's Offender Management Information System.

Qualified Health Care Professional (QHCP): Physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals, and others who, by virtue of their education, credentials, training, and experience are permitted by law to evaluate and care for patients, including Department staff and contracted or fee-for-service professionals.

Situational Accommodations – Accommodations that are temporarily needed based on circumstances. Certain examples of accommodations are listed in *DOC 3.3.15 Attachment A: Accommodation Categories*.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. The Department and contracted facilities or programs will provide offenders access to required or approved activities, services, and programs.

B. Responsibility

1. The offender Americans with Disabilities Act (ADA) Coordinator will assist facility and program administrators' compliance with the ADA and Montana Human Rights Act (MHRA). The offender ADA Coordinator will respond to requests for reasonable accommodations and complaints, train staff on the ADA, and grant accommodations to help ensure offenders with disabilities have access to all Department programs, services and activities that is consistent with the ADA.
2. The offender ADA Coordinator will have training in:
 - a. the Americans with Disabilities Act, Title II, which requires equal access to state programs and facilities by individuals with disabilities; and
 - b. the challenges faced by offenders with physical and/or mental impairments, programs designed to educate and assist disabled offenders, and all legal requirements for the protection of offenders with disabilities.
3. The offender 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.
5. Through the screening, assessment, and intake process, if an offender appears to need an accommodation, Department employees will notify the ADA Coordinator.

C. Requests for Reasonable Accommodations

1. A request for accommodation is the first step in an interactive process between the offender ADA Coordinator, or designee, and the offender to clarify the offender's request and to identify any appropriate reasonable accommodation.
2. An offender may request information or an accommodation by contacting the offender ADA Coordinator verbally or in writing.
3. Offenders may submit requests for accommodation to any staff member who will forward the request to the offender ADA Coordinator. Offenders may also directly route any written request for accommodation by using an Offender/Staff Request (OSR) form to the locally designated facility or program ADA staff member or the offender ADA Coordinator.
4. When the disability is not obvious, the offender ADA Coordinator, or designee, may request reasonable documentation of the disability. Reasonable documentation is information necessary to establish that an offender has a qualified disability. This includes external documentation and internal testing and screening conducted by the Department. The offender may be asked to sign a release of information allowing the medical caregiver to respond to the Department.
5. Upon a determination the offender has a qualified disability, the offender and the offender ADA Coordinator, or designee, will determine what accommodation(s) would be most effective and reasonable. The list in *DOC 3.3.15 Attachment A: Accommodation Categories* may be used to assist this process, as may the Job Accommodation Network (<https://askjan.org/>). The Department will make the final determination of the reasonableness of an accommodation.
6. Offenders provided accommodations may be re-evaluated annually to ensure the accommodation is adequate and appropriate, the need for accommodation is ongoing, and no

additional accommodations are needed. No accommodations shall be taken away from an offender unless there has been a change to a program, a new accommodation has become available, a documented change in the offender's disability status has occurred, or facility staff determine it is necessary to remove the accommodation based on factors reasonably related to legitimate penological interests.

D. Accommodation Function in Offender Management System

1. All offender ADA accommodations will be documented in the offender management system. Staff who may use this function in the offender management system will be trained on its use.
2. Department staff will check the offender management system for documented ADA accommodations when an offender is new to a facility or program, needs services, or experiences other major events. Facilities and programs will define applicable major events in operational procedures.
3. Department staff will document in the offender management system when a situational or continuous accommodation is provided. Situational accommodations will be documented every time one is provided. Continuous accommodations will only be documented when one is first issued.
4. Staff should always consult the offender management system, if they have questions as to whether an offender is entitled to an accommodation.

E. Site-Specific Accommodations

1. Facilities and programs will make reasonable, site-specific accommodations for offenders with a verified disability.
2. Facilities and programs will adapt language in operational procedures to provide for accommodations to include, but not be limited to, count, body searches, and offender orientation.
3. The Department will operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. Specifically:
 - a. No individual with a disability will be housed in a cell that is physically inaccessible to them.
 - b. The determination whether an individual with a disability needs an accessible cell will be made by a Qualified Health Care Professional during the screening process referred to in IV.B.5 or pursuant to a request for reasonable accommodation under IV.C.
 - c. If a facility has fewer accessible cells than necessary to house individuals with disabilities who need such cells, priority will be given to individuals who are unable to ambulate into their cell without using a wheelchair. If a facility has fewer accessible cells than necessary to house individuals who are unable to ambulate into their cell without using a wheelchair, such individuals will be transferred to a facility that can house them consistent with this policy at their current security level or lower.

F. Complaints of Disability Discrimination

1. If an offender believes they have been subject to disability discrimination, the offender must report the allegation to the Department for prompt investigation and any appropriate actions.
 - a. Offenders who are unsatisfied with a final decision on a request for an accommodation by the offender ADA Coordinator or who are filing a complaint of disability discrimination may file a formal grievance in accordance with *DOC 3.3.3 Inmate Grievance Program*, and their facility or program's offender grievance procedure. In the case of a complaint of disability discrimination, the offender must file an informal resolution as required; however, the formal grievance will be processed regardless of whether the time limits set for filing the informal resolution were met.

- b. All 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.

G. Response to Requests, Complaints, or Grievances

1. Employees and designated personnel at contracted facilities and programs will immediately inform the offender ADA Coordinator of any offender requests, complaints, or grievances involving a disability-related accommodation or discrimination. If the request, complaint, or grievance is unclear, staff shall meet with the offender for clarification.
2. The Department will act promptly to investigate and resolve all offender ADA requests, complaints, and grievances. Investigations shall be completed within 30 days, unless there are documented extenuating circumstances that make it impossible to complete the investigation. In those instances, the investigation shall be completed as promptly as possible.
3. A request may be denied if the accommodation is unreasonable or unnecessary, 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.

H. Record-Keeping Requirements

1. The offender ADA Coordinator will retain all documentation, including *DOC 3.3.15 Attachment B: Inmate ADA Request Routing*, when necessary, pertaining to the request, complaint, or grievance and the ensuing investigation in a separate investigative 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 request, complaint, or grievance.
3. The offender ADA Coordinator will maintain statistical data regarding requests, complaints, or grievances made pursuant to this policy, and the number of accommodations granted and will prepare an annual report on offender ADA activities to the Chief Legal Counsel and Department Director that includes successes, challenges, and recommendations.
4. The Department may conduct annual internal audits to ensure compliance with ADA offender requirements to include interviews with offenders, interviews with staff, and review of documentation.

V. CLOSING

Questions about this policy should be directed to the Department's offender ADA Coordinator. Copies may be posted in offender law libraries.

VI. REFERENCES

- A. 49-3-205, MCA; 49-3-209, MCA; 53-1-203, MCA
- B. *Americans with Disabilities Act of 1990*
- C. *DOC 3.3.3 Inmate Grievance Program; DOC 4.1.1 Offender Admission Process; DOC 4.1.2 Offender Reception and Orientation*

VII. ATTACHMENTS

DOC 3.3.15 Attachment A: Accommodation Categories
DOC 3.3.15 Attachment B: Inmate ADA Request Routing



ATTACHMENT A: ACCOMMODATION CATEGORIES

The following categories and accommodations are examples only. Other accommodations not listed here may be appropriate. If you have questions about disabilities or accommodations, please contact the Department ADA Coordinator.

Accommodation Category	Description
Speech Impairment	Communication Book or Board
Speech Impairment	Qualified Interpreter
Speech Impairment	Speech Synthesizer
Speech Impairment	Staff Assistance
Speech Impairment	TDD Machine
Mobility Impairment	Accessibility
Mobility Impairment	Cane
Mobility Impairment	Wheelchair
Mobility Impairment	Pusher
Mobility Impairment	Staff Assistance
Mental Impairment/Developmental Disability	Advocate
Mental Impairment/Developmental Disability	Staff Assistance
Visual Aid	Audiocassette
Visual Aid	Braille
Visual Aid	Large Print Material
Visual Aid	Magnifying Device
Visual Aid	Materials on Audiotape
Visual Aid	Personal Glasses
Visual Aid	Qualified Reader
Visual Aid	Reading Glasses
Visual Aid	Staff Assistance
Learning Disability	Audio-Taped Material
Learning Disability	Highlighter Pen and Marker
Learning Disability	Qualified Reader
Learning Disability	Reading Window, Ruler, or Angled Book
Learning Disability	Advocate
Learning Disability	Staff Assistance
Hearing Aid/Device	Assistive Hearing Device
Hearing Aid/Device	Closed Caption
Hearing Aid/Device	Communication Book
Hearing Aid/Device	Interpreter
Hearing Aid/Device	Note Taker
Hearing Aid/Device	Open and Closed Captioning
Hearing Aid/Device	Staff Assistance
Hearing Aid/Device	Typewriter
Hearing Aid/Device	Telecommunications Device
Hearing Aid/Device	Telephone Handset Amplifier
Hearing Aid/Device	Written Material
Other	



ATTACHMENT B: INMATE ADA REQUEST ROUTING

Offender Name: _____ Offender Number: _____

Facility: _____ Unit: _____

Date Request Received by Inmate ADA Coordinator: _____

Type of Request: _____

Please follow steps in numbered order.

1. Inmate ADA Coordinator

Is the request and/or concern an ADA issue?

- Yes *(develop proposed plan and proceed with step number 2)*
- No *(inform offender that their request is not an ADA issue)*

What disciplines does the request affect during the course of investigation?

- Medical
- Security
- Warden
- Legal
- Other: _____

Proposed Plan:

Date submitted to Health Services Bureau Chief: _____

Signature: _____ Date: _____
(Inmate ADA Coordinator)

2. Health Services Bureau Chief

- Proceed with Proposed Plan
- Proceed with Alternative Plan
- Do Not Proceed
- Comments:

Signature: _____ Date: _____
(Health Services Bureau Chief)

3. Inmate ADA Coordinator

(If applicable, revise proposed plan to align with Health Services Bureau Chief comments)

Revised Plan:

Signature: _____ Date: _____
(Inmate ADA Coordinator)

4. Review from Applicable Disciplines

**If request needs to be presented to the Warden Management Team, the Health Services Bureau Chief or designee will present the proposal.*

- Medical: _____
Initials: _____ Date: _____ Comments: _____
- Security: _____
Initials: _____ Date: _____ Comments: _____
- Warden: _____
Initials: _____ Date: _____ Comments: _____
- Legal: _____
Initials: _____ Date: _____ Comments: _____
- Other: _____
Initials: _____ Date: _____ Comments: _____

5. Health Services Bureau Chief

- Approved
- Not Approved
- Comments:

Signature: _____ Date: _____
(Health Services Bureau Chief)

6. Inmate ADA Coordinator

- Proposal has been approved by Health Services Bureau Chief and/or other disciplines (if applicable); proceed with resolution.
** In addition to this form, save the response letter, original request form, and all other pertinent documentation for record keeping.*
- Proposal has not been approved by Health Services Bureau Chief and/or other disciplines (if applicable); do not proceed.

Signature: _____ Date: _____
(Inmate ADA Coordinator)