



## POLICY DIRECTIVE

Policy:	<b>DOC 1.3.15 AMERICANS WITH DISABILITIES ACT (ADA)</b>
Effective Date:	07/01/2008 <span style="float: right;">Page 1 of 3</span>
Revision Date(s):	03/11/2015; 04/24/2026
Signature/Title:	/s/ Eric Strauss, Director

### I. POLICY

The Department 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 (see Glossary)

### IV. REQUIREMENTS

#### 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).
2. The ADA coordinator will be assigned from Human Resources to work with employees and the public.
3. 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.
4. 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.
5. 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 to clarify the individual's request and to identify any appropriate reasonable accommodation.
3. When the disability is not obvious, the ADA coordinator 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, the individual's 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 determine what accommodations would be most effective and reasonable.
  - a. 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 they have been subject to disability discrimination, they 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.
2. Human Resources will promptly 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.
  - a. 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. Recordkeeping Requirements**

1. The ADA coordinator will retain all documentation, including the *Discrimination Complaint* form, when necessary, pertaining to the request, grievance, or complaint and the ensuing investigation in a separate investigative file.
  - a. If an employee is involved, this information will not become part of their personnel file.
2. The Department will:
  - a. maintain the confidentiality of all medical information, unless otherwise provided by law; and
  - b. 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 Chief 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 about this policy should be directed to Human Resources.

Copies of this policy may be posted on employee and public bulletin boards.

## **VI. REFERENCES**

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

## **VII. FORM**

*Discrimination Complaint*