
Policy Number: 203.250
Title: Modifications for Incarcerated Persons~~Offenders~~/Residents with Disabilities
Effective Date: 10/16/18~~6/4/24~~

PURPOSE: To provide a process for incarcerated people ~~offenders~~ and juvenile residents with known physical or mental disabilities to request a modification to allow them to participate in Minnesota Department of Corrections (DOC) programs, services, and activities.

APPLICABILITY: ~~Offenders~~Incarcerated people/residents incarcerated at DOC correctional facilities

DEFINITIONS:

Americans with Disabilities Act (ADA) – a federal civil rights law that prohibits discrimination against people with disabilities. The ADA guarantees that people with disabilities have the same opportunities as everyone else to participate in and benefit from state and local government services, programs, and activities, including correctional programs, services, and activities.

Auxiliary aids and services – methods to make information available to individuals with communication disabilities (such as hearing, vision, or speech disabilities) so that they can receive and convey information to others as effectively as individuals without disabilities. Examples of auxiliary aids and services include qualified interpreters, notetakers, written materials, qualified readers, taped texts, audio recordings, Brailled materials, screen reader software, magnifiers, large print materials, and other similar services and actions.

Individual with a disability – a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Reasonable mModification – ~~any reasonable change or adjustment that does not jeopardize safety or security and~~ an adjustment or change to a program or process designed to ensure individuals with disabilities have equal access to programming, services, and activities that does not fundamentally alter the nature of a ~~service,~~ the program, service, or activity ~~of a living or assignment environment; or any modification of policies, practices, or procedures that permits participation by offenders/residents with physical or mental disabilities.~~

Resident – juvenile housed at Minnesota Correctional Facility – Red Wing (MCF-RW) and, for request purposes, includes requests made by the resident’s legal guardian.

PROCEDURES:

A. Intake

At intake, medical staff ask newly admitted incarcerated people~~offenders~~/residents if they require a modification. For incarcerated people~~offenders~~/residents who respond affirmatively, or alternatively, where medical staff have reason to believe a disability exists, the designated staff person must follow this policy and either Policy 202.040, “Incarcerated Person Offender-Intake Screening and Processing,” or Policy 202.041, “Juvenile Facility Admissions,” in addressing the modification needs.

B. Effective Communication

1. The DOC provides appropriate auxiliary aids and services, including American Sign Language (ASL) interpreters, when necessary to ensure that incarcerated people/offenders/residents with speech, hearing, or vision disabilities are able to understand what is said and written and can communicate effectively.
2. Facility staff follow the Sign Language Protocol (attached) to provide sign language assistance. If, at intake, staff determine there is a need for sign language interpreting services, they must contact the DOC's sign language interpreter specialist for assistance.
3. Facility staff may solicit assistance from State Services for the Blind for individuals with vision impairments or blindness.

C. Incarcerated Person/Resident/Offender Requests for Modifications

1. An incarcerated person/offender/resident may request accommodations, modifications, and auxiliary aids or services at any time by completing and signing the Incarcerated Person/Offender/Resident Request for Modification form (attached), which asks the individual/offender/resident to:
 - a) Identify the disability;
 - b) Explain how the disability limits their access to programming, services, or daily activities ~~or limits the ability to perform self-care and hygiene~~;
 - c) Detail ~~the what~~ specific accommodations, modification(s) the individual/offender/resident is requesting ~~to allow the offender/resident to participate in DOC programs, services, or activities~~; and
 - d) Acknowledge willingness to participate in discussions, assessments, or examinations with correctional, medical, or behavioral/mental health staff as necessary to resolve the request.
2. The incarcerated person/offender/resident must send the Incarcerated Person/Offender/Resident Request for Modification form to the facility Americans with Disabilities Act (ADA) coordinator. Incarcerated people/Offenders/residents may seek staff assistance in completing and submitting the form as necessary.
3. An incarcerated person's/offender's refusal to participate in the process or provide information/documentation about the disability may affect the outcome of the request if the DOC has insufficient information to assess it.
4. Per DOC Policy 204.035, "Secondary Education," individuals must send requests for modifications in educational programming to the facility ADA education coordinator. Any education-related requests mistakenly received by the facility ADA coordinator must be forwarded to the facility ADA education coordinator on behalf of the individual.

D. Initial Review by Facility ADA Coordinator

1. Within five working days of ~~Upon~~ receiving a request for modifications, the facility ADA coordinator must discuss it with the incarcerated person/offender/resident ~~the requested modification and how the disability limits the offender's/resident's ability to perform self-care and hygiene or to participate in DOC programs, services, or activities~~ to ensure the coordinator adequately understands the request. The facility ADA coordinator may temporarily approve ~~grant~~ a request as necessary ~~temporarily~~, subject to final approval by the facility ADA committee.

2. Following the initial discussion with the ~~incarcerated person/offender~~/resident, the facility ADA coordinator ~~will~~ schedules the request for consideration by the facility ADA committee at an upcoming committee meeting. The facility ADA coordinator must document in COMS and on the Request for Modifications form the dates of discussions with the individual, any temporarily-approved requests, and the date of the scheduled review by the facility ADA committee.
3. ~~Prior to the facility ADA committee's meeting, t~~The facility ADA coordinator, ~~prior to the ADA committee review,~~ must review whether ~~the request~~:
 - a) ~~The request i~~nvolves a medical or mental health condition;
 - b) ~~The individual requires additional medical or behavioral health testing or evaluations to establish disability;~~
 - ~~cb)~~ The requested modifications presents ~~any~~ safety or security concerns;
 - ~~de)~~ The requested modifications rquires facility physical plant adjustments;
 - ~~ed)~~ The request implicates other accessibility alternatives for a program, service, or activity; ~~and/or~~
 - ~~fe)~~ The individual may be accommodated through alternative but equally effective means if the initial request is not feasible.
4. ~~Based upon the initial review, T~~he facility ADA coordinator ~~may~~ consults with appropriate medical, behavioral health, case management, safety, security, physical plant, or other facility staff as necessary to confirm the individual's disability and determine whether the requested accommodations, modifications, and auxiliary aids or services are reasonable and appropriategather information to review the request. The facility ADA coordinator must use the Review of Incarcerated Person's Offender/Resident's Modification Review formtemplate (attached) to document that reviewgather information.
5. ~~At the conclusion of their review, t~~The facility ADA coordinator ~~may~~ must refer the individual for disability-related diagnostic testing to assess possible disabilityrequests based on medical or mental health concerns to a physician or behavioral health practitioner for a functional assessment of the condition, the extent to which the requested modification is warranted to address the condition, and the appropriate duration of any needed accommodation, modification, or use of an auxiliary aid or service.
- ~~6. The facility ADA coordinator must provide a copy of the offender's/resident's request and an Offender/Resident Modification Review form (attached) to be completed by the staff or medical practitioners being consulted.~~
- ~~67.~~ The facility ADA coordinator must present summary information from their ~~ir~~ coordinator's review to the facility ADA committee for consideration.

E. FacilityOffender ADA Committee Review

1. The facility ADA committee is composed of the facility ADA coordinator, health services administrator, safety director, and security captain. The committee may request other facility representatives be present on an as-needed basis.

2. The facility ADA committee must meet at least every two weeks~~monthly~~ if there are pending modification requests~~or as necessary~~ to consider incarcerated person/offender/resident modification requests and temporarily-~~approved~~granted modifications. At the conclusion of the committee's consideration of a request, the committee, and may:
 - a) Approve the requested accommodations, modifications, or auxiliary aids or services;
 - b) Approve grant, propose an alternative accommodations, means of modifications, or auxiliary aids or services;
 - c) D for, or deny the offender's/resident's request for accommodations, modifications, or auxiliary aids or services with an explanation; and/or
 - d) Refer the individual for disability-related diagnostic testing to assess possible disability.
- ~~3. If the committee proposes an alternate modification, the facility ADA coordinator must communicate the alternative to the offender/resident. If the offender/resident rejects the alternate modification and no other viable options exist, the facility ADA coordinator treats that as the final committee decision.~~
34. Once the Following a final committee reaches a decision on the modification request, the facility ADA coordinator must:
 - a) Provide the individual with a copy of Document the committee's final written decision in writing;
 - b) Provide the individual with a copy of their Request for Modification, written documentation (including any supplemental information, and notification of the individual's right to appeal the decision to the ADA compliance officer if they are not satisfied with the result) to the offender/resident;
 - c) Complete any referrals for disability-related diagnostic testing;
 - d) Make any necessary requests for records;
 - e) Upload and save the documentation in the individual's electronic file;
 - f) Detail the decision in COMS under the ADA Title II SmartSheet access plan tab; and
 - d) ~~Add documentation to the offender's/resident's electronic file; and~~
 - g) When applicable, send a copy to medical staff for documentation pursuant to DOC Policy 500.150, "Adaptive Equipment/Medical Authorizations,;" and to the property department.

F. Termination, Transfer, and other Modification Actions

1. Modifications granted pursuant to this policy are valid for up to a year from the date of final decision, unless a medical professional provides a statement supporting a longer period of validity~~the length of time determined by the facility ADA committee, with appropriate consultation from medical, safety, security, physical plant, or other facility staff as necessary.~~

2. ~~If an incarcerated person/offender/resident wants an approved modification to remain in place beyond the previously-approved duration believes that an additional modification period is required, they offender/resident must make a request for an extension which will be reviewed at the next facility ADA committee meeting. Previously-approved modifications will remain in place until the committee meets submit a new Offender Request for Modification form within 10 days of the end of the modification period. If the current modification was based on a need determined by a physician or behavioral health practitioner, the current modification remains in place pending review of the offender's/resident's new request by the ADA committee.~~
3. ~~Before an incarcerated person/offender/resident with an approved modification is transferred to another DOC facility, the facility's ADA coordinator, the offender's/resident's case manager, and/or the facility's transitions coordinator must communicate with the receiving facility's ADA coordinator that the offender/resident has a disability and provide a summary of the resulting service provisions required to ensure appropriate continuation of the modification(s).~~
4. ~~In the event of an emergency or extended disruption of normal facility operations, the facility ADA coordinator or designee may suspend any provision or section of this policy for a specific period of time in the interest of individual or collective safety.~~
45. ~~Before an individual with an approved modification is assigned new housing, transferred to a restrictive housing unit, or assigned to new programming, For offenders/residents with disabilities, the facility staff responsible for implementing the transfer or change housing assignments, disciplinary measures, program assignments and transfers to other facilities must consult with the designated facility ADA coordinator to ensure continuation of the modification before implementation. When immediate transfer or change in assignment action is required, consultation with the facility ADA coordinator committee to review the appropriateness of the action must occur in a reasonable amount of time.~~
6. ~~Facilities must ensure there are sufficient accessible beds available to accommodate offenders/residents with disabilities.~~

G. Incarcerated Person/Resident Right to Appeal Grieving a Modification Decision

1. An individual/offender/resident whose request for modifications is denied by the facility ADA committee or who is not dissatisfied with approved alternative modifications decision may seek reconsideration of their request by appealing to the DOC's ADA compliance officer at central office within thirty days of receiving the facility ADA committee's response to their Request for Modification. submit a grievance pursuant to DOC Policy 303.100, "Grievance Procedure." If the current modification was based on a need determined by a physician or behavioral health practitioner, the current modification remains in place pending the resolution of the grievance process. To appeal, the individual must submit to the ADA compliance officer a completed Appeal of ADA Decision form (attached), with the following documents attached to it:
 - a) The Request for Modification form; and
 - b) The written response the individual received from the facility ADA committee.
2. Upon receipt of an appeal, the facility ADA coordinator must forward the individual's appeal documents to the ADA compliance officer at central office.

3. The ADA compliance officer must respond to all appeals within fifteen working days of receiving the appeal and document the response in the individual's electronic file. In response to the appeal, the ADA compliance officer may:
- a) Approve the individual's original request for modifications;
 - b) Approve reevaluation of the individual's disability or condition by the facility ADA coordinator. The approval for reevaluation may include a referral for new or updated medical or behavioral health disability-related diagnostic testing or assessments. Upon being directed to reevaluate an individual for possible disability, the facility ADA coordinator may also refer the individual within thirty days for new or updated medical or behavioral health disability-related diagnostic testing or assessments; or
 - c) Deny the appeal. For all denied appeals, the ADA compliance officer must provide a written explanation. The decision of the ADA compliance officer is final within the DOC but individuals will be provided with information about the U.S. Department of Justice in case they wish to submit a complaint.

INTERNAL CONTROLS:

- A. Incarcerated person~~Offender~~/resident modification decisions are documented in COMS, the ADA Title II SmartSheet, and the incarcerated person's~~offender~~/resident's electronic file as appropriate.
- B. Incarcerated person~~Offender~~/resident modification decisions related to medical conditions are forwarded to medical staff for documentation in the individual's~~offender's/resident's~~ medical file as appropriate.
- C. The facility ADA coordinator's discussions with the individual, any temporarily-approved requests, and the date of the scheduled review by the facility ADA committee are documented on the Request for Modifications form and in COMS.

~~There are sufficient accessible beds available to accommodate offenders/residents with disabilities.~~

~~ACA STANDARDS: 4-4142; 4-4143; 4-4144; 4-4399; 4-4429; 4-4429-1; 1-ABC-5A-01; 1-ABC-5A-01-2; 1-ABC-5A-03~~

REFERENCES:

Code of Federal Regulations implementing Title II of the ADA
~~Minn. Stat. Chapter 363A~~
Policy 202.040, "Incarcerated Person~~Offender~~ Intake Screening and Processing"
Policy 202.041, "Juvenile Facility Admissions"
Policy 303.100, "Grievance Procedure"
Policy 500.150, "Adaptive Equipment/Medical Authorizations"
Policy 202.105, "Multiple Occupancy Cell/Room Assignment"
Policy 202.045, Management and Placement of Incarcerated People Who Are Transgender, Gender Diverse, Intersex, or Nonbinary"
Policy 204.035, "Secondary Education"

REPLACES:

Policy 203.250, "Offenders with Disabilities" ~~8/7/18~~10/16/18.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS:

Offender~~Incarcerated Person~~/Resident Request for Modification (203.250B)
Sign Language Protocol (203.250C)

Offender Review of Incarcerated Person's/Resident's Request for Modification Review template (203.250D)
Incarcerated Person's/Resident's Appeal of ADA Decision (203.250E)
ADA Paging Guidelines (203.250F)
Pager Equipment Agreement form (203.250F.1)

APPROVED BY:

Deputy Commissioner, Chief of Staff Facility Services
Deputy Commissioner, Client Community Services and Supports
Assistant Commissioner, Agency Facility Services and Supports
Assistant Commissioner, Facilities Operations Support
Assistant Commissioner, Facilities
Assistant Commissioner, Community Services and Reentry
Assistant Commissioner, Health, Recovery, and Programming