DEPARTMENT OF CORRECTIONS

Policy Number: 203.250
Title: Modifications for Incarcerated Persons/Residents with Disabilities
Effective Date: 6/4/24

PURPOSE: To provide a process for incarcerated people 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: 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 modification – 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 the program, service, or activity.

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/residents if they require a modification. For incarcerated people/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 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/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 Requests for Modifications

1. An incarcerated person/resident may request accommodations, modifications, and auxiliary aids or services at any time by completing and signing the Incarcerated Person/Resident Request for Modification form (attached), which asks the individual to:
   a) Identify the disability;

   b) Explain how the disability limits their access to programming, services, or activities;

   c) Detail the specific accommodations, modifications the individual is requesting; and

   d) Acknowledge willingness to participate in discussions, assessments, or examinations with correctional, medical, or behavioral health staff as necessary to resolve the request.

2. The incarcerated person/resident must send the Incarcerated Person/Resident Request for Modification form to the facility Americans with Disabilities Act (ADA) coordinator. Incarcerated people/residents may seek staff assistance in completing and submitting the form as necessary.

3. An incarcerated person'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 receiving a request for modifications, the facility ADA coordinator must discuss it with the incarcerated person/resident to ensure the coordinator adequately understands the request. The facility ADA coordinator may temporarily approve a request as necessary, subject to final approval by the facility ADA committee.

2. Following the initial discussion with the incarcerated person/resident, the facility ADA coordinator will schedule 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, the facility ADA coordinator must review whether:
   a) The request involves a medical or mental health condition;

b) The individual requires additional medical or behavioral health testing or evaluations to establish disability;

c) The requested modifications present safety or security concerns;

d) The requested modifications require facility physical plant adjustments;

e) The request implicates other accessibility alternatives for a program, service, or activity; and

f) The individual may be accommodated through alternative but equally effective means if the initial request is not feasible.

4. The facility ADA coordinator may consult 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 appropriate. The facility ADA coordinator must use the Review of Incarcerated Person's/Resident's Modification form (attached) to document that review.

5. At the conclusion of their review, the facility ADA coordinator may refer the individual for disability-related diagnostic testing to assess possible disability and the appropriate duration of any accommodation, modification, or use of an auxiliary aid or service.

6. The facility ADA coordinator must present information from their review to the facility ADA committee for consideration.

E. Facility 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 if there are pending modification requests to consider incarcerated person/resident modification requests and temporarily-approved modifications. At the conclusion of the committee's consideration of a request, the committee may:

a) Approve the requested accommodations, modifications, or auxiliary aids or services;

b) Approve alternative accommodations, modifications, or auxiliary aids or services;

c) Deny the 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. Once the committee reaches a decision, the facility ADA coordinator must:

a) Provide the individual with a copy of the committee's final written decision;

b) Provide the individual with a copy of their Request for Modification, 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;

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; 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.

2. If an incarcerated person/resident wants an approved modification to remain in place beyond the previously-approved duration, they 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.

3. Before an incarcerated person/resident with an approved modification is transferred to another DOC facility, the facility's transitions coordinator must communicate with the receiving facility's ADA coordinator to ensure continuation of the modification.

4. Before an individual with an approved modification is assigned new housing, transferred to a restrictive housing unit, or assigned to new programming,, the facility staff responsible for implementing the transfer or change must consult with the facility ADA coordinator to ensure continuation of the modification. When immediate transfer or change in assignment is required, consultation with the facility ADA coordinator must occur in a reasonable amount of time.

G. Incarcerated Person/Resident Right to Appeal

1. An individual whose request for modifications is denied by the facility ADA committee or who is not satisfied with approved alternative modifications 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. 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/resident modification decisions are documented in COMS, the ADA Title II SmartSheet, and the incarcerated person's/resident's electronic file as appropriate.

B. Incarcerated person/resident modification decisions related to medical conditions are forwarded to medical staff for documentation in the individual'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.

REFERENCES:
Code of Federal Regulations implementing Title II of the ADA
Policy 202.040, "Incarcerated Person Intake Screening and Processing"
Policy 202.041, "Juvenile Facility Admissions"
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" 10/16/18.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS:
Incarcerated Person/Resident Request for Modification (203.250B) (public pdf)
Sign Language Protocol (203.250C) (public pdf)
Review of Incarcerated Person's/Resident's Request for Modification (203.250D) (public pdf)
Incarcerated Person's/Resident's Appeal of ADA Decision (203.250E) (public pdf)
ADA Paging Guidelines (203.250F) (public pdf)
Pager Equipment Agreement form (203.250F.1) (public pdf)

APPROVED BY:

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