
Policy Number: 203.250
Title: Modifications for Offenders/Residents with Disabilities
Effective Date: 10/16/18

PURPOSE: To provide a process for offenders and 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/residents incarcerated at DOC correctional facilities

DEFINITIONS:

Modification – any reasonable change or adjustment that does not jeopardize safety or security and does not fundamentally alter the nature of a service, program, 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 offenders/residents if they require a modification. For 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, “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 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. Offender Requests for Modifications

1. An offender/resident may request a modification at any time by completing and signing the Offender/Resident Request for Modification form (attached), which asks the offender/resident to:
 - a) Identify the disability;
 - b) Explain how the disability limits daily activities or limits the ability to perform self-care and hygiene;

- c) Detail what specific modification(s) the 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 mental health staff as necessary.
2. The offender/resident must send the Offender/Resident Request for Modification form to the facility Americans with Disabilities Act (ADA) coordinator. Offenders/residents may seek staff assistance in completing and submitting the form as necessary.
 3. An 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.

D. Initial Review by Facility ADA Coordinator

1. Upon receiving a request, the facility ADA coordinator must discuss with the 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 grant a request temporarily, subject to final approval by the ADA committee.
2. Following the initial discussion with the offender/resident, the facility ADA coordinator schedules the request for consideration by the facility ADA committee.
3. The facility ADA coordinator, prior to the ADA committee review, must review whether the request:
 - a) Involves a medical or mental health condition;
 - b) Presents any safety or security concerns;
 - c) Requires facility physical plant adjustments;
 - d) Implicates other accessibility alternatives for a program, service, or activity; or
 - e) May be accommodated through alternative means if the initial request is not feasible.
4. Based upon the initial review, the facility ADA coordinator consults with appropriate medical, case management, safety, security, physical plant, or other facility staff as necessary to gather information to review the request. The coordinator may use the Offender/Resident Modification Review template (attached) to gather information.
5. The facility ADA coordinator must refer requests 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 duration of any needed modification.
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.
7. The facility ADA coordinator must present summary information from the coordinator's review to the facility ADA committee for consideration.

E. Offender 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 meets monthly or as necessary to consider offender/resident modification requests and temporarily-granted modifications, and may grant, propose an alternate means of modification for, or deny the offender's/resident's request.
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.
4. Following a final committee decision on the modification request, the facility ADA coordinator must:
 - a) Document the decision in writing;
 - b) Provide the written documentation (including supplemental information) to the offender/resident;
 - c) Detail the decision in COMS under the ADA access plan tab;
 - d) Add documentation to the offender's/resident's electronic file; and
 - e) When applicable, send a copy to medical staff for documentation pursuant to DOC Policy 500.150, "Adaptive Equipment/Medical Authorizations."

F. Termination, Transfer, and other Modification Actions

1. Modifications granted pursuant to this policy are valid for 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 offender/resident believes that an additional modification period is required, the offender/resident must 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 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.
5. For offenders/residents with disabilities, facility staff responsible for housing assignments, disciplinary measures, program assignments and transfers to other facilities must consult with the designated facility ADA coordinator before implementation. When immediate action is required, consultation with the facility ADA 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. Grieving a Modification Decision

An offender/resident who is dissatisfied with a modification decision may 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.

INTERNAL CONTROLS:

- A. Offender/resident modification decisions are documented in COMS and the offender/resident electronic file as appropriate.
- B. Offender/resident modification decisions related to medical conditions are forwarded to medical staff for documentation in the offender's/resident's medical file as appropriate.
- C. 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, "Offender Intake Screening and Processing"](#)
[Policy 202.041, "Juvenile Facility Admissions"](#)
[Policy 303.100, "Grievance Procedure"](#)
[Policy 500.150, "Adaptive Equipment/Medical Authorizations"](#)

REPLACES:

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

ATTACHMENTS:

[Offender/Resident Request for Modification](#) (203.250B)
[Sign Language Protocol](#) (203.250C)
[Offender/Resident Modification Review template](#) (203.250D)

APPROVED BY:

Deputy Commissioner, Facility Services
Deputy Commissioner, Community Services
Assistant Commissioner, Facility Services
Assistant Commissioner, Operations Support