

**STATE OF ALASKA
DEPARTMENT OF CORRECTIONS**



POLICIES & PROCEDURES

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CHAPTER: 808	NUMBER: 808.16	P&P TYPE: Public
TITLE: Prisoner ADA Compliance Program		
APPROVED BY: <i>Nancy A. Dahlstrom</i> Nancy A. Dahlstrom, Commissioner		DATE: 12/20/2019

- ATTACHMENTS / FORMS:
- A. Prisoner ADA Request Flow Chart
 - B. ADA Accommodation Request for Prisoners
 - C. Prisoner ADA Request: Prisoner Information Release
 - D. Prisoner ADA Request: Health Care Provider Information
 - E. Prisoner ADA Request Review and Action
 - F. Prisoner ADA Request Resolution Agreement
 - G. Notice of Non-Resolution to a Prisoner ADA Request
 - H. ADA Accommodation Review

- AUTHORITY / REFERENCES:
- 6 AAC 65.010-990 AS 33.30.011
 - 22 AAC 05.155 AS 33.30.021
 - AS 18.80 AS 44.28.030
 - 42 U.S.C. 12101 et seq. DOC P&P 808.11
 - State of Alaska Administrative Order 129.

POLICY:

- I. It is the policy of the Department of Corrections (DOC) to comply with the requirements of the 1990 Americans with Disabilities Act (ADA) in order to prevent and eliminate discrimination against prisoners with disabilities in the delivery of programs and services within DOC institutions.
- II. It is the policy of the Department to have in place procedures allowing prisoners to request reasonable accommodations for their disabilities when they feel that they are not able to fully participate in the programs and services offered by the Department, due to their disability.
- III. It is the policy of the Department to track and review each request for reasonable accommodation, and to allow for an appeal process as set out in the Procedures below. It is also the policy of the Department to attempt to resolve all reasonable accommodation requests at the lowest level possible.

APPLICATION:

This policy and procedure will apply to all Department employees and prisoners.

DEFINITIONS:

As used in this policy, the following definitions shall apply:

Alaska State Commission For Human Rights (ASCHR):

The ASCHR is the state agency that enforces the Alaska Human Rights Law, AS 18.80. The Commission

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consists of seven commissioners appointed by the Governor. The Commission has statewide powers and accepts and investigates complaints from individuals across all regions of the state.

DOC Institutional ADA Coordinator:

A DOC employee within an institution designated with the oversight of the ADA as it pertains to prisoners housed within that institution. Usually appointed by the Superintendent.

DOC Prisoner ADA Coordinator:

The Standards Administrator, or alternatively, an administrative employee designated by the DOC Commissioner who serves as the ADA Coordinator for prisoners within the Department’s custody.

Medical Advisory Committee (MAC):

The MAC is a Health Care Administrator appointed panel comprised of health care personnel to include at a minimum, the Health Care Administrator, Chief Medical Officer, Chief Nursing Officer, Chief Mental Health Officer, Health Practitioner II(s), Medical Social Worker, Quality Assurance and Utilization Review Nurse and selected collaborating and consulting physicians, psychiatrists or nurses. The MAC shall authorize all non-emergency hospitalizations and surgeries, some specialty referrals, complex cases, special studies or treatments; review Departmental decisions that deny a prisoner treatment recommended by a consulting physician; investigate and respond to prisoner health care grievance appeals (DOC P&P 808.03, Prisoner Grievances); respond to prisoner’s appeals to the use of involuntary medication; and review and approve health care policies and procedures, clinical guidelines, medical operating procedures and protocols.

State ADA Coordinator:

An individual in the Department of Administration charged with the implementation and oversight of the ADA program within the State of Alaska.

PROCEDURES:

I. General Guidelines for Prisoner ADA Compliance:

A. Department employees shall be proactive with regards to reasonably accommodating the needs of disabled prisoners. Where reasonable accommodations can be made with little disruption or expenditure of funds employees should attempt to do so and thus avoid the need for the filing of official reasonable accommodation requests. Some examples of reasonable accommodations include, but are not limited to providing:

1. Space for wheelchairs in class rooms and dining areas;
2. Assistance with note taking and the completing of forms; and
3. Audio books and braille books to blind prisoners.

B. Superintendents need to ensure that sign language interpreters are provided to deaf prisoners for communication needs, to include:

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1. Educational classes and opportunities;
2. Other classes offered to prisoners at an institution;
3. Grievances;
4. Disciplinary hearings;
5. Medical appointments; and
6. Other instances of institutional life in which communication is important.

- C. Prisoners may informally request reasonable accommodations by using the procedures set out in DOC P&P 808.11 (Communication Between Prisoners and Staff). Prisoners may address their written reasonable accommodation requests to their Institutional ADA Coordinator.
- D. If a prisoner's request for a reasonable accommodation under the ADA is granted, the DOC offender management system shall be updated (on the ADA screen) to indicate that an accommodation for that particular prisoner is in place.
- E. Reasonable accommodations may be discontinued for a prisoner if Department medical staff determines that the prisoner is no longer disabled in such a way as to require the reasonable accommodation. If a reasonable accommodation is discontinued, the Institutional and Prisoner ADA Coordinators shall be notified, and the DOC offender management system shall be updated.

II. Prisoner Reasonable Accommodation Requests:

- A. If an informal attempt to gain a reasonable accommodation does not resolve the issue, the prisoner may formally request a reasonable accommodation to programs and services within the institution. Please see the Prisoner ADA Request Flow Chart (attachment A) for an overview of the formal procedures. These formal procedures are initiated when the prisoner completes the ADA Accommodation Request for Prisoners (attachment B).
- B. Within ninety (90) days from the date of the alleged discriminatory practice or action, the prisoner shall contact the Institutional ADA Coordinator for the ADA Accommodation Request for Prisoners (attachment B).
- C. The prisoner should complete the form and make sure it is signed, either personally or by the prisoner's authorized representative.
- D. Completed forms should then be returned to the Institutional ADA Coordinator.
- E. The ninety (90) day time limit for filing can only be extended for good cause.

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F. If necessary, prisoners must also complete the Prisoner ADA Request: Prisoner Information Release (attachment C) and the Prisoner ADA Request: Health Care Provider Information (attachment D). These forms are also available from the Institutional ADA Coordinator.

III. Prisoner Reasonable Accommodation Request Review Process:

- A. Upon receipt of an ADA Accommodation Request for Prisoners (attachment B), the Institutional ADA Coordinator shall start a file, with copies of all the relevant information including a Prisoner ADA Request Review and Action (attachment E), which will be updated throughout the process. A copy of this file will be forwarded to the DOC Prisoner ADA Coordinator.
- B. Unless the State ADA Coordinator extends the time for good cause, no later than five (5) business days after receiving an ADA Accommodation Request for Prisoners, a copy will be forwarded to the State ADA Coordinator so that he or she is aware that a request has been filed with the institution.
- C. Within ten (10) business days of having received the completed ADA Accommodation Request for Prisoners (attachment B), the Institutional ADA Coordinator shall meet with the prisoner personally. The purpose of the meeting will be to try to resolve the request.
- D. If the prisoner needs an auxiliary aid or service at the meeting (i.e., an interpreter, reader, larger print, Brailled materials, or an analog or digital recording), the prisoner must let the Institutional ADA Coordinator know in advance so that there may be effective communication between the prisoner and the Institutional ADA Coordinator.
- E. If a satisfactory resolution is reached at the meeting, a Prisoner ADA Accommodation Request Resolution Agreement (attachment F) will be prepared. The agreement will be signed by the prisoner or the prisoner's representative, the Institutional ADA Coordinator, and the Superintendent of the institution where the ADA Accommodation Request for Prisoners (attachment B) was filed.
- F. The formal Prisoner ADA Request Resolution Agreement (attachment F) shall be issued to the prisoner within ten (10) business days of the meeting. It must include:
 - 1. A description of the request for reasonable accommodation;
 - 2. Findings of facts;
 - 3. A description of how the request for reasonable accommodation will be resolved;
 - 4. When the request for reasonable accommodation will be resolved; and
 - 5. A statement that the institution and the prisoner agree to comply with the specific terms of the agreement.

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- G. If necessary, the agreement will be transcribed into another communication format so that the prisoner can understand it.
- H. If the Institutional ADA Coordinator is unable to resolve the request for reasonable accommodation, the prisoner must be notified in writing using the Notice of Non-Resolution to a Prisoner ADA Request (attachment G) and in another communication format if necessary, for the prisoner to understand it.
- I. The Notice of Non-Resolution to a Prisoner ADA Request (attachment G) shall be issued within ten (10) business days of the meeting and must include:
 - 1. A description of the request for accommodation;
 - 2. A summary of any resolution proposed; and
 - 3. A statement concerning the issues that could not be resolved.

IV. Prisoner Reasonable Accommodation Request Appeal Process:

- A. If the request for reasonable accommodation is not resolved at the institution level, the prisoner may request a review of the institution's decision by the DOC Prisoner ADA Coordinator. The DOC Prisoner ADA Coordinator will confer with the Medical Advisory Committee (MAC). The MAC will have thirty (30) days to conduct a case review. Once this review is complete the DOC Prisoner ADA Coordinator will issue a decision to the prisoner within ten (10) days.
- B. If the request for reasonable accommodation is not resolved by the DOC Prisoner ADA Coordinator, the prisoner may then request a review by the State ADA Coordinator.
- C. The prisoner must request this review by the State ADA Coordinator within ten (10) business days of the time the prisoner receives notification that the DOC Prisoner ADA Coordinator was unable to resolve the request for accommodation. The prisoner's request to the State ADA Coordinator must be in writing and must include:
 - 1. The prisoner's name, address, and DOC prisoner number;
 - 2. A detailed statement of the reason(s) for the request of a review;
 - 3. The name of the institution that was unable to resolve the request for reasonable accommodation; and
 - 4. The prisoner's signature or the signature of the prisoner's representative.
- D. The State ADA Coordinator will issue a written response to the prisoner's request for review within thirty (30) business days after receipt of the request. The written response will be sent to both the prisoner and the Department of Corrections.

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- E. If the State ADA Coordinator finds that the request for reasonable accommodation can be resolved, the State ADA Coordinator will work with the Commissioner of the Department of Corrections to resolve the complaint.
- F. If the State ADA Coordinator finds that the Department of Corrections is in compliance with the ADA or has not engaged in discriminatory activities against the prisoner, the State ADA Coordinator will advise the prisoner of the steps necessary to file a formal complaint with the ASCHR or the U.S. Department of Justice, if the prisoner chooses to proceed further.

V. Prisoners Returning to DOC Custody:

- A. During the intake process institutional staff shall verify in the DOC offender management system whether the prisoner had an accommodation in place while they were previously in DOC custody.
- B. Any prisoner with an ADA accommodation in place, who is released from an institution and then returns to the institution at a later date, shall automatically have their accommodation reinstated without the need to formally re-request the reasonable accommodation.
- C. When an ADA accommodation is automatically reinstated for a prisoner returning to DOC custody the Institutional ADA Coordinator shall be notified by institutional staff via e-mail as soon as possible so that they may review the accommodation.
- D. Within five (5) business days of being notified that an accommodation has been automatically reinstated for a returning prisoner, the Institutional ADA Coordinator shall start a review file, with copies of all the relevant information including details on the previous accommodation provided to the prisoner when they were last in DOC custody. A copy of this file will be forwarded to the DOC Prisoner ADA Coordinator.
- E. Within thirty (30) days of the initial notification of an accommodation reinstatement the Institutional ADA Coordinator shall review the accommodation being provided in order to determine whether it is still needed by the prisoner or not. This review may include, but is not limited to:
 - 1. Interviews with the prisoner;
 - 2. Requests for medical records from the prisoner's health care provider;
 - 3. Physical exams; and
 - 4. Consultation with DOC medical staff.
- F. After reviewing all the information that Institutional ADA Coordinator shall complete and issue the ADA Accommodation Review (attachment H.) to the prisoner. A copy shall also be sent to the DOC Prisoner ADA Coordinator.

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- G. If the Institutional ADA Coordinator determines that the accommodation is still necessary, it shall continue until the prisoner no longer requires the accommodation or they are released from DOC custody.
- H. If the Institutional ADA Coordinator determines that the accommodation is no longer necessary it shall be withdrawn, subject to an appeal by the prisoner as set out in Procedures section IV, above.
- I. The DOC offender management system shall be updated accordingly.

VI. Observation and Implementation:

All Department employees are responsible for observing and implementing this policy. If at any time it is found that an employee willfully failed to observe and implement this policy, including the implementation of any reasonable accommodations that are approved and granted to a prisoner, the employee may be subject to discipline, up to and including dismissal.

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