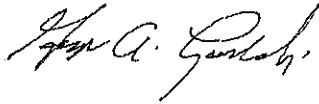

**MISSOURI DEPARTMENT OF CORRECTIONS
DEPARTMENT
PROCEDURE MANUAL**

D5-5.2 Disabled Offenders

Effective Date: July 24, 2011



George A. Lombardi, Department Director

I. PURPOSE: This procedure has been developed to establish guidelines for the assessment and accommodation of offenders that qualify under the Americans with Disabilities Act (ADA).

A. **AUTHORITY:** Section 217.040 RSMo and Americans with Disabilities Act.

B. **APPLICABILITY:** All divisions of the department.

II. DEFINITIONS:

A. **Americans with Disabilities Act Department Coordinator:** A staff member appointed by the department director to receive and act on all Americans with Disabilities Act complaints/grievances and proposed resolutions received from American With Disabilities Act site coordinators or those received at the department level.

B. **Americans with Disabilities Act Site Coordinator:** A staff member appointed at each worksite to address and propose resolutions to Americans with Disabilities complaints/grievances at that location.

C. **Auxiliary Aids and Services:** Includes qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments: qualified readers, taped texts or other effective methods of making visually delivered materials available to individuals with visual impairments; acquisition or modification of equipment or devices; and other similar services and actions.

D. **Blind:** Visual acuity of 20/200 or less in the better eye with corrective lens, or the widest diameter of visual field is no greater than 20 degrees.

E. **Bona-Fide Vendor:** For the purpose of this procedure, a legitimate entity that is primarily engaged in the sale or repair of durable medical equipment.

F. **Chief Administrative Officer:** The chief administrative officer is the highest ranking individual at the worksite, as designated below. Exception: Staff at the worksite who do not report to the worksite chief administrative officer will be accountable to the deputy/assistant division directors/central office section heads who are in their chain of command.

1. Director's Office

a. Deputy Department Director

2. Department Sections in the Director's Office:

a. Deputy Department Director

-
- b. Central Office Section Heads
3. Division of Probation and Parole:
 - a. Division director/designee
 - b. Chief State Supervisor
 - c. Assistant Division director/designee
 - d. Regional Administrator
 - e. Superintendents
 - f. Field Service Administrators
 - g. District Administrators
 4. Division of Adult Institutions
 - a. Division director/designee
 - b. Deputy Division director/designee
 - c. Assistant to Division director/designee
 - d. Wardens
 5. Division of Offender Rehabilitative Services
 - a. Division director/designee
 - b. Assistant Division director/designees
 - c. Wardens
 - d. Central Office Section Heads
 6. Division of Human Services
 - a. Division director/designee
 - b. Central Office Section Heads
 - c. Regional Training Administrators
- G. **Disability:** A physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment or being regarded as having such an impairment.
- H. **Qualified Offender with a Disability:** An offender with a disability who, with or without reasonable modifications to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.
- I. **Reasonable Accommodation:** Modifications or adjustments that make existing facilities used by offenders readily accessible to and usable by individuals with disabilities and/or the acquisition or modification of equipment or devices to assist in services, programming and activities taking into account safety and security concerns.
- J. **Reasonable Modification:** Any change in policy, practice or procedure that is necessary to avoid discrimination on the basis of disability that does not fundamentally alter the nature of the service, program or activity the qualified offender seeks to attend.
- K. **Temporary Disabilities:** A temporary impairment that substantially limits a major life activity. Whether a temporary impairment is significant enough to be a qualified disability shall be resolved on a case-by-case basis taking into consideration both the duration, or expected duration of the impairment and the extent to which it actually limits life activity.

III. PROCEDURES:

A. DEPARTMENT COORDINATOR:

1. The director of the division of human services will serve as the Americans with Disabilities Act department coordinator, responsible for providing assistance to the Americans with Disabilities Act site coordinators.
 - a. The Americans with Disabilities Act department coordinator will monitor compliance with the requirements of the Americans with Disabilities Act as relevant to the offender population, staff and the public.
 - b. The Americans with Disabilities Act department coordinator will:
 - (1) provide staff and offenders guidance relative to Americans with Disabilities Act issues and accommodations;
 - (2) oversee the auxiliary aids and services for qualified offenders with disabilities;
 - (3) maintain all necessary information about access to and the operation of available services; and
 - (4) provide appropriate assistance regarding access to and proper use of the appropriate auxiliary aids and services available and contracts.

B. SITE COORDINATORS:

1. The chief administrative officer will designate Americans with Disabilities Act site coordinators for each work location.
 - a. The Americans with Disabilities Act site coordinator shall:
 - (1) provide oversight for the acquisition, maintenance, repair, replacement and distribution of auxiliary aids;
 - (2) ensure and know where the appropriate auxiliary aids are stored, how to operate them and where to obtain services;
 - (3) maintain a record system for inquiries regarding provision of auxiliary aids and services and responses; and
 - (4) monitor compliance with the requirements of the Americans with Disabilities Act and this procedure.
 - (A) The Americans with Disabilities Act site coordinator will submit a written memorandum to the chief administrative officer of any relevant Americans with Disabilities Act issue within 2 working days of being notified by an offender or staff member.
 - (B) The Americans with Disabilities Act site coordinator will submit the Americans with Disabilities Act Complaints/Grievances Report (Attachment A) to the chief administrative officer and the Americans with Disabilities Act department coordinator by the 5th of each month for the preceding month.

C. REASONABLE MODIFICATIONS:

1. Disabled offenders will be provided reasonable modifications that allow for the opportunity to participate in services, programs and activities which may include:
 - a. reasonable modifications to policies, practices, or procedures;
 - b. enabling access to services, programs and activities;
 - c. providing access to auxiliary aids and services, wheelchairs and other adaptive equipment;
 - (1) Offenders who are authorized by medical services to have wheelchairs may order their own personal wheelchairs to include motorized wheelchairs, with the approval of the warden.
 - (A) Medical staff will review the need for the offender to have the wheelchair and approve a wheelchair other than state issued.
 - (B) Medical staff will forward the request to the warden. The warden will review issues relative to safety and security and make a final determination.
 - (C) Offenders will be responsible for the care, maintenance, repairs and cost of repairs of the wheelchair. Repairs will be made by a bona-fide vendor.
 - d. free postage for outgoing mail for blind and other visually disabled offenders and offenders with other handicaps that can prevent normal reading upon their request.
 - (1) The Americans with Disabilities Act site coordinator should make arrangements for free postage with mailroom staff and the local U.S. Post Office in accordance with institutional services procedures regarding offender mail.
 - e. services from Wolfner Library which allow blind and other visually disabled persons access to books on tape sent through the mail, free of charge:
 - (1) standard operating procedures will be established to develop a process for offenders to obtain items from the Wolfner Library, designating the following:
 - (A) which staff member can approve orders from the Wolfner Library;
 - (B) how the items will be ordered;
 - (C) how the items will be processed in and out of the institution;
 - (D) the number of items that may be ordered at one time;
 - (E) the number of items the offender may have in possession at one time;
 - (F) a process for tracking the items as items obtained from the Wolfner Library will not be counted as personal property items and will not be included toward any limits on orders from outside vendors.

D. IDENTIFICATION OF DISABLED OFFENDERS:

1. Reasonable efforts will be made to identify disabled offenders at the reception and diagnostic centers, or as soon as possible after assignment to an institution.
 - a. The identification process will be an interactive process which will include staff observations, offender reports, and/or medical assessment of an offender's disability.
 - (1) All newly received offenders will be screened at the reception and diagnostic centers by reception and orientation staff during the diagnostic evaluation process.
 - (A) If an offender appears to have, or claims to have, a disability, he¹ will be provided with the Notice of Rights for Offenders with Disabilities (Attachment B).
 - (2) If further assessment is recommended, reception and diagnostic staff will refer the offender to medical staff.
2. Offenders who have assistive devices in their possession will be allowed to retain them until the assessment is complete.
3. Deaf and hard of hearing offenders shall be identified in accordance with D5-5.1 Deaf and Hard of Hearing Offenders.
4. Blind offenders shall be provided staff assistance during the diagnostic process.
5. Reception and orientation staff and medical staff will explain the methods for requesting accommodations or modifications to the offender.
 - a. Offenders who appear to have a disability, or who have been determined to have a disability will be provided the Request for Reasonable Accommodation form (Attachment C).
 - b. Classification or medical staff should offer assistance if the offender's disability would impair his ability to complete the form.
6. Medical staff shall complete the medical verification section of the Request for Reasonable Accommodation form and consult with the classification staff, and as the need arises, the Americans with Disabilities Act site coordinator to determine the appropriate accommodations for the offender.
 - a. The classification staff shall review the Request for Reasonable Accommodation form with the offender and obtain the offender's signature.
 - b. If the offender does not agree with the determination, he may submit an appeal to the warden by completing the Appeal of Denial/Modification of Request for Reasonable Accommodation form (Attachment D).
 - c. The original copy of the Request for Reasonable Accommodation and/or the Appeal of Denial/Modification of Request for Reasonable Accommodation should be placed in the medical file with copies to:
 - (1) mental health staff, if the offender is referred for mental health services;

¹ All references in this procedure to the male gender are used for convenience only and shall be construed to include both female and male genders.

- (2) the functional unit manager/designee for placement in the classification file;
 - (3) the education section for placement in the education file;
 - (4) the Americans with Disabilities Act department coordinator; and
 - (5) the offender.
- d. The warden/designee shall consult with the Americans with Disabilities Act department coordinator or general counsel if necessary.
7. During the completion of the diagnostic assessment process, the caseworker at the receiving institution shall assess disabled offenders for the need of auxiliary aid services or assistive devices for the following:
- a. vocational skills;
 - b. major life activities;
 - c. communication skills;
 - d. academic level; and
 - e. medical, mental health and substance abuse assessment.
8. If requested by the offender, a sign may be placed on the offender's cell door identifying the offender's disability.

E. PROVISION OF APPROPRIATE AUXILIARY AIDS AND SERVICES:

1. Offenders shall be provided appropriate auxiliary aids or services that are necessary to facilitate effective participation in programs, activities and services, as soon as possible, after determining that the aid or service is necessary.

F. REASONABLE ACCOMMODATIONS:

1. Disabled offenders, to the extent they are able, are responsible for making their needs known to medical staff or classification staff.
2. The ability to request reasonable accommodations will be an ongoing process throughout an offender's incarceration.
3. The initial determination made during the diagnostic and classification process shall follow the offender through any transfers unless a medical determination is made at the later date that modifies or removes the determination.
4. Appropriate reasonable accommodations may differ depending on the ability of the offender and the nature of the service, program or activity.
5. The functional unit manager will ensure offenders who are affected by this procedure receive accommodations as needed and consult the Americans with Disabilities Act site coordinator when assistance is needed.

6. Information provided by the offender, medical staff and/or other persons qualified to evaluate disability and accommodation needs, will be used to determine what accommodations are reasonable.
7. Safety and security concerns will take precedence over any accommodation afforded disabled offenders and may result in the temporary or permanent suspension of any accommodation.
8. If the action needed to provide effective access would create an undue burden by causing fundamental alteration of a service, program or activity, or undue financial and administrative burdens on the department, the action may not be required.
 - a. Denials of accommodations based on undue burden will be referred through the chief administrative officer to the Americans with Disabilities Act department coordinator.
 - b. If the action would create an undue burden, the department will investigate other means to provide effective access.
9. Chief administrative officers will develop a process to ensure staff receives updated information regarding the specific needs of disabled offenders.
10. Requests for accommodations due to temporary disabilities will receive case-by-case evaluation and review by medical staff and the Americans with Disabilities Act site coordinator as the need arises.

G. FACILITY/PROGRAM PLACEMENT:

1. Disabled offenders will be assigned to facilities consistent with their health, safety, and security requirements.
 - a. Accessible housing is available for disabled offenders and allows for interaction with other offenders.
 - b. Programs and services will be available and accessible to disabled offenders residing in the facility.
2. The following may require a consultation between the classification staff and the medical staff. If immediate action is necessary, the consultation must occur as soon as possible, but no later than 72 hours from the time the staff member becomes aware of the issue.
 - a. housing and bed assignments;
 - b. programming assignments;
 - c. disciplinary measures;
 - d. transfers to a facility for chronically ill, physically disabled, geriatric, seriously mentally ill or developmentally disabled offenders;
 - e. offender work assignments;
 - (1) Disabled offenders should be allowed the opportunity to participate in work programs, including work release as long as they otherwise qualify for a position and are able to perform the essential functions of the job with or without reasonable accommodations.
3. Offender assistants will be assigned to provide assistance to disabled offenders unable to perform basic life functions if so requested by the disabled offender.
 - a. This will be considered an offender work assignment.

4. Disabled offenders will receive education, equipment and support necessary to perform self-care and personal hygiene in a reasonably private environment by appropriate staff such as medical, physical therapists, audiologists, etc.

H. COMMUNICATION:

1. Staff will communicate information, announcements, procedures, and other directions to visually impaired offenders.

I. USE OF MECHANICAL RESTRAINTS:

1. Restraint of disabled offenders will be modified to accommodate an offender's disability while maintaining custody and control of the offender.
2. When possible, the use of mechanical restraints will not impede the offender's ability to communicate.

J. SEARCHES:

1. Disabled offenders will be searched consistent with established institutional security practices, but with consideration for the specific disability.
2. The chief of custody and security or, in his absence, the shift supervisor shall provide directions for searching an offender whose disability prevents a routine search.
 - a. Standard operating procedures will be developed to address issues such as search methods and the use of mechanical restraints with disabled offenders.

K. PROPERTY:

1. Health care appliances and/or assistive devices will be evaluated by health care staff, the chief of custody and security and Americans with Disabilities Act site coordinators.
2. Medical staff will prescribe specific items and determine whether the need is permanent or temporary.
 - a. The health care provider will advise the offender's classification staff when the assistive device is no longer needed.
3. Wardens may permit offenders with assistive devices provided by the department, to retain these items following release.
 - a. The warden will consider the degree of need for the assistive device outside the correctional facility and the ability of the offender to provide his own device following release.
 - b. The warden should consult with the Americans with Disabilities site and department coordinators, if necessary.

L. REMOVAL OF ASSISTIVE DEVICES:

1. Assistive devices may be removed from an offender's possession under special circumstances, including but not limited to:
 - a. disciplinary and administrative actions in which property removal is part of the authorized actions, such as disciplinary segregation and administrative segregation.

b. where they may pose a safety or security hazard to the offender or to others.

(1) An example of this would possibly be when an offender is placed on suicide watch or if the offender has used the device to harm himself or others.

2. Authorized assistive devices which are essential to daily life functions and which do not constitute a safety or security hazard should not be removed.

a. When assistive devices are removed from offenders, the health care authority/designee and warden must be notified as soon as possible and no later than 24 hours.

(1) The person authorizing the removal will submit a written report to the warden prior to the end of that shift documenting the reason for the removal.

b. Upon notification, an evaluation and assessment will begin of the offender's ability to function and the need for accommodation.

c. Decisions regarding the continued denial of the assistive device must be made by the warden within 3 working days.

(1) The warden will notify the appropriate deputy/assistant division director in these instances.

M. EMERGENCY PROCEDURES:

1. All facilities will develop emergency procedures for the safe evacuation of all disabled offenders.
2. Offenders with disabilities will be instructed on emergency procedures specific to their needs in accordance with standard operating procedures.
3. Staff will be trained regarding the evacuation of disabled individuals by the supervisor of the assigned area, facility training staff or appropriate designee.

IV. ATTACHMENTS

- A. 931-3919 Americans with Disabilities Act Complaints/Grievances Report
- B. Notice of Rights for Offenders with Disabilities
- C. 931-4462 Request for Reasonable Accommodation form
- D. 931-4461 Appeal of Denial/Modification of Request for Reasonable Accommodation form

V. REFERENCES:

- A. D5-5.1 Deaf and Hard of Hearing Offenders
- B. IS13-1.1 Offender Mail

VI. HISTORY:

- A. Original Effective Date: July 26, 2008
- B. Revised Effective Date: May 15, 2010
- C. Revised Effective Date: July 24, 2011

NOTICE OF RIGHTS FOR OFFENDERS WITH DISABILITIES

THE RIGHT TO REASONABLE ACCOMMODATIONS

Disabled offenders have the right to receive "reasonable accommodations" to make programs and services more accessible.

To ensure effective offender access to programs, activities, and services, the Department of Corrections shall:

- Make reasonable modifications in policies, practices, and/or procedures
- Remove barriers to access when appropriate, and/or
- Provide certain auxiliary aids and services

If the action needed to provide effective access creates an undue burden or poses a legitimate safety or security concern, the action shall not be required.

Deaf and hearing-impaired offenders may get an interpreter and other services at facilities where needed in:

- Diagnostic and classification activities
 - Institutional Assessment and Classification Hearings
 - Regularly scheduled health care appointments and programs
 - Missouri Sex Offender Program
 - Substance abuse treatment and other formal programming
 - Educational and vocational classes and activities
 - Disciplinary hearings
 - Formal investigations
 - Hearings before the parole board and any parole assessment and interview process in preparation for hearings
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HOW TO ASK FOR A REASONABLE ACCOMMODATION

Disabled offenders must ask the caseworker or medical staff for the Request for Reasonable Accommodation form to submit per procedure.

HOW TO MAKE COMPLAINTS

Offenders who are denied a reasonable accommodation or believe they were discriminated against by department staff because of their disabilities may file a grievance through the grievance process.

DISTRIBUTION: This notice shall be posted in prominent places at each Department facility.



STATE OF MISSOURI
DEPARTMENT OF CORRECTIONS
REQUEST FOR REASONABLE ACCOMMODATIONS

DATE

OFFENDER NAME

DOC NO.

I DO NOT REQUEST REASONABLE ACCOMMODATIONS
 I REQUEST REASONABLE ACCOMMODATIONS AS INDICATED BELOW FOR THE FOLLOWING PROGRAM OR SERVICE:

CHECK TO INDICATE REQUEST

HEARING IMPAIRMENT		VISUAL IMPAIRMENT		PHYSICAL IMPAIRMENT	
REQUESTED	APPROVED	REQUESTED	APPROVED	REQUESTED	APPROVED
<input type="checkbox"/> Qualified Sign Lang. Interpreter	<input type="checkbox"/>	<input type="checkbox"/> Large Print	<input type="checkbox"/>	<input type="checkbox"/> Wheelchair	<input type="checkbox"/>
<input type="checkbox"/> T.T.Y./T.D.D.	<input type="checkbox"/>	<input type="checkbox"/> Orientation & Mobility Instruct.	<input type="checkbox"/>	<input type="checkbox"/> Crutches	<input type="checkbox"/>
<input type="checkbox"/> Telephone Amplifier	<input type="checkbox"/>	<input type="checkbox"/> Mobility Asslstants	<input type="checkbox"/>	<input type="checkbox"/> Cane	<input type="checkbox"/>
<input type="checkbox"/> Closed Caption TV/VCR	<input type="checkbox"/>	<input type="checkbox"/> Guidance Cane	<input type="checkbox"/>	<input type="checkbox"/> Walker	<input type="checkbox"/>
<input type="checkbox"/> Hearing Aids/Batteries	<input type="checkbox"/>	<input type="checkbox"/> Support Cane	<input type="checkbox"/>	<input type="checkbox"/> Lower Bunk	<input type="checkbox"/>
<input type="checkbox"/> Other _____	<input type="checkbox"/>	<input type="checkbox"/> Braille Print	<input type="checkbox"/>	<input type="checkbox"/> First Floor Assignment	<input type="checkbox"/>
		<input type="checkbox"/> Braille Equipment	<input type="checkbox"/>	<input type="checkbox"/> Dorm Proximity to Meals	<input type="checkbox"/>
		<input type="checkbox"/> Magnifiers	<input type="checkbox"/>	<input type="checkbox"/> Other _____	<input type="checkbox"/>
		<input type="checkbox"/> Other _____	<input type="checkbox"/>		

OFFENDER SIGNATURE

INTERPRETER PRESENT
 YES NO

PRINTED CLASSIFICATION STAFF NAME/TITLE

CLASSIFICATION STAFF SIGNATURE

MEDICAL DETERMINATION/VERIFICATION (Use Established Definitions)

Severe Visual Impairment Blind No Medical Verification
 Functional Hearing Impairment Deaf (Severe Hearing Impairment) Physical Impairment

EXPLAIN

MEDICAL REASONABLE ACCOMMODATION DETERMINATION RECOMMENDATION

The reasonable accommodations requested above have been:

DATE

- Approved as requested
- Modified
- Denied

Accommodations which have been approved are marked above

Explanation:

PRINTED MEDICAL STAFF NAME/TITLE

MEDICAL STAFF SIGNATURE

DATE

Return and consult with the staff member whose name appears next to the offender's signature above.

This section is to be completed by the offender.

- I agree with this determination.
- I want the Superintendent to review any request that has been modified or denied.
- I want to meet with the Superintendent or her/his designee during this review.
- I want to have an interpreter with me or other assistive device during this meeting.

OFFENDER SIGNATURE

DATE

PRINTED STAFF NAME/TITLE

STAFF SIGNATURE

DATE



DEPARTMENT OF CORRECTIONS
**APEAL OF DENIAL/MODIFICATION OF REQUEST
 FOR REASONABLE ACCOMMODATIONS**

DATE _____

This section is to be completed by the offender.

OFFENDER NAME	DOC NO.
FACILITY	DATE OF REQUEST

My request for a reasonable accommodation (describe why the accommodation is necessary) _____

has been denied modified (explain) _____

OFFENDER SIGNATURE	DATE
PRINTED CLASSIFICATION STAFF NAME/TITLE	CLASSIFICATION STAFF SIGNATURE
	DATE

SUPERINTENDENT'S REVIEW/RESPONSE (Superintendent's designee may conduct this review)

DATE RECEIVED _____ DATE OF MEETING WITH OFFENDER (IF NECESSARY) _____

Your request for reasonable accommodation has been

approved as requested
 modified
 denied

Explanation: _____

IF APPLICABLE WAS SIGN LANGUAGE INTERPRETER USED AT THIS MEETING?
 YES NO

IF NOT, EXPLAIN WHY NOT _____

SUPERINTENDENT/DESIGNEE SIGNATURE	DATE
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This section is to be completed by the offender.

I have been advised of my right to grieve this decision via the offender grievance procedure.

OFFENDER SIGNATURE	DATE
PRINTED STAFF NAME/TITLE	STAFF SIGNATURE
	DATE

D 931-4481 (7-04) DISTRIBUTION: WHITE - MEDICAL FILE CANARY - CLASSIFICATION FILE PINK - EDUCATION FILE
 GOLDENROD - ADA COORDINATOR/CO BLUE - OFFENDER