

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 300.00.35	Page 1 of 8
	Original Effective Date: 03/26/10	New Effective Date: 01/01/17
	Supersedes: 300.00.35	Dated: 01/20/12
	Administrator's Approval: Jim Schwochert, Administrator	
Required Posting or Restricted:		
<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 300 Administrative		
Subject: Americans with Disabilities Act		

POLICY

The Division of Adult Institutions shall ensure fair and equitable treatment of inmates and members of the public with disabilities who seek access to DAI services, programs or activities.

REFERENCES

Americans with Disabilities Act of 1990, as amended
2010 ADA Standards for Accessible Design
Wisconsin Administrative Code Ch. DOC 303 – Discipline
Wisconsin Administrative Code Ch. DOC 310 – Complaint Procedures
Executive Directive 17 – Non-Discrimination and Reasonable Accommodations for Inmates, Offenders, Juveniles, and Members of the Public Who are Qualified Individuals with Disabilities
DAI Policy 309.00.01 – Inmate Work Placement
DAI Policy 309.06.01 – Visitor Entrance – Special Needs
DAI Policy 309.39.01 – Monitoring and Recording of Inmate Telephone Calls
DAI Policy 309.55.01 – Inmate Compensation Plan

DEFINITIONS, ACRONYMS, AND FORMS

ADA – Americans with Disabilities Act

ADA Coordinator – Person(s) identified by each facility to receive and process requests for accommodation from inmates or members of the public.

ADA Advisory Committee – Committee appointed by the DOC Secretary to oversee ADA federal compliance initiatives. Committee members shall consist of a representative from each division.

Blind – An individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

BOCM – Bureau of Offender Classification and Movement

DAI – Division of Adult Institutions

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Deaf – An individual who cannot readily understand spoken language through hearing alone and who may also have a speech defect, which renders speech unintelligible to most people with normal hearing.

Disability – A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such impairment.

DOC – Department of Corrections

DOC-9 – Adult Conduct Report

DOC-237 – Property Receipt/Disposition

DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI)

DOC-2466 – Incident Report (WICS)

DOC-2530 – Reasonable Modification/Accommodation Request

DOC-2649 – Relative/Associate Requesting Telephone Relay Accommodations

Due Process – Formal process for processing conduct reports defined in Wisconsin Administrative Code Ch. DOC 303.

HSU – Health Services Unit

Major life activities – Includes but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. For the purpose of this policy, in the DOC setting, major life activities also include attending orientations, meetings, hearings, religious services, visits, library, work release, dining, canteen, health care and leisure activities. Major life activities also include major bodily functions.

Major bodily function – Includes but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Primary Programs – Alcohol and drug programs, cognitive based programs, domestic violence, sex offender treatment, education, anger management.

Qualified inmate with a disability – An inmate 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

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– meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Reasonable accommodation – Includes, but is not limited to, adjustments, adaptations, or modifications to facilities or operations within a facility, or the use of modified or auxiliary aids that enable a qualified person with a disability equal access, participation, and benefits of programs services and activities. Such accommodation shall not impose undue hardship on the DOC nor compromise the safety or security of staff, inmates, public or any facility.

Substantially limit – The impairment presents a significant barrier in the performance of a major life activity.

Virtual ADA Folder – An electronic folder used for the purpose of tracking ADA determinations.

WICS – Wisconsin Integrated Corrections System

PROCEDURE

I. General Guidelines

- A. Each facility shall appoint a primary and a back-up ADA Coordinator and shall establish a process by which inmates and members of the public with qualified disabilities may request accommodations for access to programs, services and activities.
- B. Under the ADA, discrimination against any individual based on their disability is prohibited.
- C. Qualified individuals with a disability may not be excluded from participation in or be denied the benefits of DAI services, programs or activities on the basis of their disability. All DAI programs, services and activities, when viewed in their entirety, shall be readily accessible to and useable by individuals with disabilities.
- D. DAI shall not retaliate against qualified individuals with a disability who request an accommodation or who file a grievance or complaint regarding the ADA.
- E. The DOC shall make its programs accessible in all cases, except where to do so would result in a fundamental alteration in the nature of the program, would threaten or destroy the historic significance of an historic property or result in undue financial and administrative burdens.
- F. Appropriate reasonable accommodation may differ depending on the ability of the inmate, the physical structure of the facility, and the nature of the program or activity in question.

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II. Guidelines for Accessibility and Reasonable Accommodation

- A. For an inmate to be eligible under this policy, the ADA Coordinator in conjunction with HSU shall determine whether the inmate is in need of an accommodation.
- B. For a member of the public who requests a reasonable accommodation, the individual may be required to submit medical documentation to support the need for the request.
- C. Facilities shall attempt to modify their practices or facility procedures to make its services, programs, and activities accessible to individuals with disabilities.
 - 1. Modifications may not fundamentally alter the nature of the service, program or activity or create an undue administrative or financial burden or a significant risk to the safety and/or security of the facility, staff, or inmates.
 - 2. Facilities shall seek alternative means of achieving accessibility for qualified individuals with disabilities if a requested modification is not feasible.
- D. An inmate with a disability is able to participate in programs and activities of daily living with the same opportunity as other inmates.
 - 1. This can be accomplished by non-structural changes such as relocating a program, service, or activity to an accessible area, or through structural changes such as making a physical change to an existing building or area.
 - 2. Participation may also be made accessible with the use of auxiliary aids.
- E. Devices shall be used as intended by the manufacturer.
- F. Deaf and Hard of Hearing
 - 1. Inmate access to adaptive hearing devices for telephone calls shall be equivalent to access to telephone calls by hearing inmates. Inmates using adaptive devices for phone calls may be allowed, not to exceed three times the amount of time usually permitted for phone calls.
 - 2. Deaf or hard of hearing members of the public who wish to communicate with inmates shall submit a DOC-2649 to the attention of the facility ADA Coordinator prior to receiving a relay call in accordance with DAI 309.39.01.
 - 3. Facilities shall develop procedures to ensure visual alarms or manual means of notifying deaf or hard of hearing inmates are in place for such things as emergencies, counts, and announcements whenever and wherever the inmate is authorized to be in the facility.
 - 4. The facility shall ensure closed captioning is available on all facility televisions for the viewing of television programs transmitted with closed captioning.
 - 5. Accommodations may include a qualified sign language interpreter or other auxiliary aids, services and devices.

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G. Blind and Visually Impaired

1. The facility shall ensure an escort be provided for visually impaired inmates during an emergency or any type of movement, as necessary.
2. The facility may provide accommodations to visitors with visual impairments upon request.

H. Due Process

1. In the event a DOC-9 is issued for a violation and an inmate is claiming his/her disability prevented him/her from following facility rules, the Hearing Officer/Committee shall review the DOC-9 to determine if the alleged violation stemmed from a disability-related event. The facility ADA Coordinator or HSU may be consulted about the inmate's disability status.
2. While the facility shall provide reasonable accommodations, the inmate shall make a good faith effort to use the accommodations provided and follow facility rules.
3. If the Hearing Officer/Committee determines the inmate has made a good faith effort to comply with the rules and policies of the facility, but due to a documented disability, violated them, the DOC-9 may be dismissed.

III. Reasonable Accommodation

A. Upon intake at a DOC facility, inmates shall be advised of their rights to reasonable accommodations to include the method for requesting such accommodation and the procedures for seeking an administrative remedy of a denial or modification of such requested accommodation.

B. Accommodation Request

1. DOC-2530 shall be completed by the inmate and forwarded to the facility's ADA Coordinator.
2. The ADA Coordinator may complete a DOC-2530 on behalf of an inmate, when necessary.
3. If staff believe an inmate may have an ADA need, the ADA Coordinator shall be notified.
4. If immediate needs warrant an accommodation and the ADA Coordinator is unavailable, a Security Supervisor shall be notified and a DOC-2466 shall be completed. Necessary accommodations shall be made until the ADA Coordinator is able to review.

C. If an inmate requests reasonable accommodations:

1. The ADA Coordinator shall review the DOC-2530 and consult with HSU or PSU to determine:
 - a. If there is a qualified disability under the ADA.
 - b. If the requested accommodation:
 - i. Is the most reasonable way to provide equal access (balancing security, cost, and program fidelity with individual need) to programs, services or daily living activities.
 - ii. Does not compromise the safety or security of any individual or the facility.

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2. HSU or PSU shall determine if further evaluation by qualified experts (e.g., audiologist, ophthalmologist) is necessary to verify any functional impairment and determine the need for reasonable accommodation.
3. The Security Director/designee shall review all ADA recommended devices for security concerns.
4. The ADA Advisory Committee may be consulted in determining accommodations.
5. The ADA Coordinator shall document in WICS – Special Handling the identified disability and the determination(s) made on all related accommodation requests.
 - a. The completed DOC-2530 shall be retained in the inmate's medical chart and a copy sent to the inmate for notice of decision.
 - b. The ADA Coordinator shall also ensure a copy is posted in the ADA Virtual Folder.
6. The ADA Coordinator shall implement reasonable accommodations if approved.

D. Confidentiality

1. A signed authorization by the inmate is not required for an ADA Coordinator to access Protected Health Information contained in DOC records, such as the Health Care Record and Social Service File, when the information directly relates to the ADA request.
2. A signed DOC-1163A is required for an ADA Coordinator to consult with community providers or obtain external health records.

IV. Appeal

An inmate may appeal denied decisions concerning a request for reasonable accommodation through the Inmate Complaint Review System.

V. Facility Placement

- A. An inmate's particular disabilities and accommodation needs shall be considered along with security needs and programming availability/accessibility at various facilities.
- B. The ADA Coordinator shall act as a liaison with BOCM staff regarding placement of an inmate with a disability.
- C. The BOCM Director/designee may be consulted in complex cases.

VI. Review Upon Transfer

- A. Adaptive devices determined to be medically necessary and designed specifically for an inmate shall be recorded on a DOC-237 and shall remain with the inmate at any facility until it is deemed unnecessary by medical staff.
- B. Adaptive devices approved on the DOC-2530 shall be reviewed by the ADA Coordinator at the receiving facility.

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Administrator's Approval: _____ **Date Signed:** _____

Jim Schwochert, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 300.00.35	Page
New Effective Date:	Supersedes Number:	Dated:
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Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES

DEFINITIONS, ACRONYMS, AND FORMS

FACILITY PROCEDURE

- I.
 - A.
 - 1.
 - a.
 - B.
 - C.
- II.
 - A.
 - B.
 - C.