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<input checked="" type="checkbox"/> PIOC <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 PIOC 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 PIOC 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.

Auxiliary Aids - Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and obtain the benefits of, programs or activities conducted by the agency.

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

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DAI – Division of Adult Institutions

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 or 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

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.

Hard of Hearing- Refers to an individual who has a mild-to-moderate hearing loss who may communicate through sign language, spoken language or both.

HCR – Health Care Record

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.

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

Qualified Individual with a Disability – A person 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.

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, PIOC, 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 PIOC 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 qualified 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. DAI 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

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threaten or destroy the historic significance of a historic property or result in undue financial and administrative burdens.

- F. Appropriate reasonable accommodation may differ depending on the ability of the individual, the physical structure of the facility and the nature of the program or activity in question.

II. Guidelines for Accessibility and Reasonable Accommodation

- A. The facility ADA Coordinator, in collaboration with health services, shall determine if an individual is eligible for an accommodation.
- B. In addition, consultation with other areas of the facility including, but not limited to, education, maintenance, psychological services and security, shall ensure the most appropriate accommodation does not pose a threat to the safety and security of other individuals or the facility.
- C. For a member of the public who requests reasonable accommodation, the individual may be required to submit a medical documentation to support the need for the request.
- D. 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 PIOC.
 2. Facilities shall seek alternative means of achieving accessibility for qualified individuals with disabilities if a requested modification is not feasible.
- E. PIOC with a disability is able to participate in programs and activities of daily living with the same opportunity as other PIOC.
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.
- F. Devices shall be used as intended by the manufacturer.
- G. Deaf and Hard of Hearing
1. PIOC access to adaptive hearing devices for telephone calls shall be equivalent to access to telephone calls made by hearing PIOC. PIOC using adaptive devices for phone calls may be allowed up to 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 PIOC shall submit a DOC-2649 to the attention of the facility ADA

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Coordinator prior to receiving a telephone call using an adaptive hearing device 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 PIOC are in place for such things as emergencies, counts and announcements whenever and wherever PIOC are 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.
6. Unless legitimate safety concerns dictate otherwise, deaf or hard of hearing PIOC placed in handcuffs or mechanical restraints are restrained in a manner that permits effective communication. For example, application of handcuff in the front of the body to allow the ability to sign or one hand free in order to write.

H. Blind and Visually Impaired

The facility shall ensure an escort is provided for visually impaired PIOC during an emergency or any type of movement, as necessary.

I. Due Process

1. In the event a DOC-9 is issued for a violation and PIOC are claiming their disability prevented them 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 shall be consulted about PIOC disability status and abilities in relation to the alleged offense.
2. While the facility shall provide reasonable accommodations, PIOC shall make a good faith effort to use the accommodations provided and follow facility rules.
3. If the Hearing Officer/Committee determines PIOC have 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. Intake/Transfer Procedure

- A. Intake facilities shall ensure PIOC are advised during the orientation process of their rights to reasonable accommodations and how to request them.
- B. Intake facilities shall ensure all incoming PIOC are screened for disabilities.
 1. All screenings shall be documented.
 2. PIOC who are identified with a disability through this screening process shall be provided a DOC-2530 by the ADA Coordinator.
- C. All facilities shall designate staff to screen transfer lists in WICS for PIOC with possible disabilities prior to their arrival.

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- D. Upon transfer to any DOC facility, PIOC shall be advised of the following during orientation.
1. The process of how to request ADA accommodations.
 2. The method for seeking an administrative remedy of a denial or modification of such requested accommodation.

IV. Reasonable Accommodation

- A. Accommodation Request Process
1. DOC-2530 shall be completed by PIOC and forwarded to the facility's ADA Coordinator.
 2. The ADA Coordinator may complete a DOC-2530 on behalf of PIOC, when necessary.
 3. If staff believe PIOC 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.
- B. If PIOC request reasonable accommodations:
1. The ADA Coordinator shall review the DOC-2530 and consult with HSU and/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.
 2. HSU and/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 HCR and a copy sent to PIOC 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.

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C. Confidentiality

1. A signed authorization by PIOC are not required for an ADA Coordinator to access Protected Health Information contained in the HCR 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.

V. **Appeal**

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

VI. **Facility Placement**

- A. PIOC 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 PIOC with a disability.
- C. The BOCM Director/designee may be consulted in complex cases.

VII. **Review Upon Transfer**

- A. Adaptive devices determined to be medically necessary and designed specifically for PIOC shall be recorded on a DOC-237 and shall remain with PIOC 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.

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

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REFERENCES