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Title <b>OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES</b>
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Legal References (includes but is not limited to) Americans With Disabilities Act (ADA)	Related Policies/Procedures (includes but is not limited to) 00-02-201, 01-01-101, 01-01-102, 01-01-103, 01-02-101, 01-04-101, 01-05-101, 01-06-101, 01-07-101, 01-08-101, 02-01-101, 02-01-105, 03-02-104, 04-02-102, 04-03-103,	Other References (includes but is not limited to) ACA Standards ACI: 4-4142, 4-4143, 4-4144, 4-4169, 4-4277, 4-4429
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**I. PURPOSE**

The purpose of this Policy and Administrative Procedure is to establish uniform guidelines for processing offender/youth issues arising from the American with Disabilities Act (ADA).

**II. POLICY STATEMENT**

It is the policy of the Indiana Department of Correction to provide reasonable accommodation for offenders/youth with physical disabilities to ensure that daily living activities may be completed with dignity and that no individual, by reason of disability, be excluded from participation in, or be denied the benefits of the services, programs, or activities of the Department.

**III. DEFINITIONS:**

- A. **PHYSICAL DISABILITY:** The term “physical disability” means, with respect to an individual, a physical impairment that substantially limits one or more major life activities of such individual, a record of such impairment, or being regarded as having such an impairment.
  
- B. **MAJOR LIFE ACTIVITIES:** Major life activities include, but are 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. A major life activity also includes the operation of a major bodily function, including but not limited to,

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functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

#### IV. GENERAL PROVISIONS

- A. The Department of Correction shall not discriminate against staff, offenders/youth or visitors on the basis of a physical disability in regards to the provision of services, programs, treatment, and activities. The Department shall ensure the rights of offenders/youth with physical disabilities are addressed in a manner consistent with legitimate correctional interests.
- B. For the purpose of this policy and administrative procedure, offenders/youth with physical disabilities are those offenders/youth who are physically disabled as defined by State and/or federal law.
- C. The Department shall determine the appropriate accommodation based upon the barriers to effective participation or use by the offenders/youth, facility security and safety, accommodation effectiveness, and the cost of providing accommodation.
- D. The Department shall provide staff, offenders/youth, and visitors access to:
  - 1. Qualified staff or other persons familiar with the challenges faced by persons with physical and/or mental impairments;
  - 2. Programs designed to educate and assist offenders/youth with disabilities; and,
  - 3. All legal requirements for the protection of offenders/youth with disabilities.
- E. Offenders/youth with identified disabilities shall be provided reasonable accommodation that allows participation in services, programs, and activities. This accommodation may include:
  - 1. Reasonable modifications to policies, practices and procedures;
  - 2. Removing barriers to access; and/or,
  - 3. Providing auxiliary aids and services.
- F. The safety and security of the facilities, staff, offenders/youth, and the public shall take precedence over any modification or accommodation provided to

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offenders/youth with identified disabilities and may result in the temporary or permanent suspension of any modification or accommodation.

- G. If the modification or accommodation needed to provide effective access would create an undue burden by causing fundamental alteration of a service, program or activity, or undue financial or administrative burdens on the Department, the modification or accommodation may be denied. In cases where a modification or accommodation is denied, the denial shall be submitted to the Chief Counsel who shall review the reasons for the denial and discuss the denial with other appropriate staff to determine whether other means exist to provide effective access.
- H. Each facility shall designate a staff person who can assist offenders/youth with disabilities to obtain needed services and access to programs. This person shall be the designated Americans with Disabilities (ADA) Coordinator for the facility.
- I. For daily living activities, staff or other offenders/youth may assist a hearing impaired offender/youth to understand the activities taking place around him/her. However, in matters that involve a liberty interest (e.g., Classification hearing, Disciplinary Hearing, etc.), staff shall ensure that the offender/youth is given the opportunity to request that a certified interpreter is obtained to assist in explaining the situation.
- J. In cases where a physical disability or the need for an accommodation is temporary, staff shall review these cases on a case-by-case basis to determine the appropriate manner in which to address the temporary physical disability or accommodation.
- K. In cases where an offender/youth arrives in the Department without a physical disability but develops a physical disability while incarcerated in the Department, the offender/youth shall be instructed to contact the Health Services staff at the facility.
  - 1. In these cases, Health Services staff shall make an assessment of the offender's/youth's alleged physical disability.
  - 2. If Health Services staff determines that an accommodation can be made (e.g., providing a hearing aid for an offender/youth with a loss of hearing), Health Services staff shall initiate the process to implement the accommodation.

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3. In such case, the Health Services staff shall notify the ADA Coordinator who will meet with the offender/youth to determine whether other accommodations are appropriate.

## V. INTAKE PROCESS

- A. All offenders/youth received at an Intake Unit shall be provided with a “Notice of Rights for Offenders with Disabilities,” (See Attachment) unless the offender/youth cannot read or is visually impaired and cannot read the Notice, in which case staff shall read the Notice to the offender/youth and ensure that the offender/youth understands the information in the Notice and how to contact staff to request an accommodation. This Notice shall be presented during the offender’s/youth’s orientation at the Intake Unit. The offender/youth shall be given an opportunity to sign for receipt of the Notice. The signed Notice shall be placed in the offender’s/youth’s facility packet.
- B. As soon as possible after an offender/youth arrives at an Intake Unit, staff shall make an initial assessment as to whether the offender/youth has a physical disability. This assessment shall be made based upon:
  1. Self-reporting by the offender/youth;
  2. Staff observations during interactions with the offender/youth;
  3. Documentation provided by other agencies; and/or,
  4. Any other method that may assist in the determination of a disability.
- C. The offender/youth shall be responsible for making known any needs due to a physical disability to Health Services and/or Classification staff as soon as possible during the Intake process.
- D. Upon determination that the offender/youth may have a physical disability, the offender/youth shall be referred to Health Services staff. Health Services staff shall examine the offender/youth and make the final determination as to whether the offender/youth has a physical disability
- E. If Health Services staff determines that the offender/youth has a physical disability, the ADA Coordinator shall be notified.
- F. The ADA Coordinator shall meet with the offender/youth to attempt to determine the degree of disability and what accommodations have been made for the offender/youth in the past and whether those accommodations are available at the facility and can be made for the offender/youth.

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- G. If Health Services staff determines that the offender's/youth's disability is hearing impairment, the ADA Coordinator shall contact the Deaf and Hard of Hearing Services (DHHS), Division of Disability and Rehabilitative Services (DDRS) of the Family and Social Services Administration, to arrange for an assessment by DHHS staff.
1. Upon completion of the assessment, the ADA Coordinator shall review the results of the assessment with any appropriate staff and determine what accommodations are necessary to ensure that the offender/youth can perform normal life activities.
  2. If the assessment determines that the offender/student is deaf, staff shall ensure that the offender/youth can communicate through lip-reading or other means to understand the Classification process. If the offender/youth understands American Sign Language, the facility shall determine whether an interpreter is necessary to ensure that the offender/youth understands the Intake process and the Classification process.
  3. If an interpreter is needed, the ADA Coordinator shall work with all appropriate staff to ensure that an interpreter is scheduled for any hearings or meetings with the offender/youth. (NOTE: Interpreters shall be obtained through the QPA established for State agencies.)
- H. At the completion of the Intake and Classification processes, staff shall attempt to assign the offender/youth to an appropriate facility that can provide the accommodations to address his/her disability in accordance with any assessment that has been completed. Staff shall consider the recommendations made in the assessment of the offender/youth.

## VI. FACILITY ASSIGNMENTS

- A. Offenders/youth with physical disabilities shall be assigned to facilities consistent with their health, safety, and security requirements. To the greatest extent possible, housing assignments for offenders/youth with physical disabilities shall be accessible and allow for interaction with other offenders/youth and staff.
- B. Facilities shall develop a process to ensure staff receives updated information regarding the specific needs of offenders/youth with physical disabilities.

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- C. Offenders/youth with physical disabilities shall be given the opportunity to participate in program and work assignments for which they qualify and for which they can meet/perform the basic and/or essential functions of the assignment.
- D. The facilities shall ensure that appropriately trained persons (staff, offenders/youth, volunteers, contractors) are assigned to assist the disabled offender/youth who is not able to perform basic life functions.
- E. Offenders/youth with physical disabilities will receive education, equipment, and support necessary to perform self-care and personal hygiene in a reasonably private setting.
- F. Upon arrival at the facility from an Intake Unit, designated staff shall review the offender's/youth's packet to determine if an assessment has been conducted regarding a disability. If such an assessment has been conducted, the staff person shall ensure that this assessment and any included recommendations are provided to the Classification Committee for consideration.
- G. The Classification Committee shall consider any information provided by the offender/youth student, Health Services staff and/or other persons qualified to evaluate the disability and accommodation needs when classifying the offender/youth and determining what modifications or accommodations are reasonable.
- H. Facilities may establish specific housing units or bed assignments for offenders/youth with disabilities. For example, a specific housing unit or bed assignment may be fitted with equipment necessary for the disabled offender's/youth's needs (e.g., for deaf offenders/youth these accommodations may include a strobe light connected to the audible fire alarm or a vibrating alarm clock, etc.).
- I. Once classified and provided a housing unit and bed assignment, the Classification Committee shall ensure that the offender's/youth's Unit/Treatment Team is made aware of the offender's/youth's disability and the modifications or accommodations that have been approved.

## VII. COMMUNICATION

- A. Staff shall directly and effectively communicate information, announcements, procedures, and other rules to offenders/youth with disabilities.

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- B. The facility's ADA Coordinator shall work cooperatively with the Division of Staff Development and Training to provide training to staff that will have direct contact with offenders/youth with disabilities.
- C. Adult facilities may establish a "helper/aid" work assignment for an offender without disabilities to assist an offender who has a disability. In these cases, the "helper/aid" may assist the disabled offender with routine life activities, including assisting the offender to get to meals on time, to understand basic communications/instructions, or to be made aware of other daily information. "Helper/aids" shall not be used to interpret for a hearing impaired offender during educational programming, Classification hearings, Disciplinary hearings, or Health Services appointments.
- D. Facilities housing physically disabled offenders/youth shall ensure that any necessary equipment (e.g. TTY telephone equipment, Braille material in Law Libraries and school) is made available to a disabled offender/youth. The facility shall ensure that the offender/youth is made aware of the manner in which to access this equipment, including availability and the duration of use. (Staff shall be mindful that the use of equipment, such as TTY equipment, is more time consuming than normal conversations and shall adjust the time that a disabled offender/youth will be provided to make telephone calls.)
- E. In those cases where hearing impaired offenders/youth use American Sign Language (ASL), facilities shall ensure that whenever the offender/youth is involved in a Classification or Disciplinary Hearing or any other activity that may impact a liberty interest, a licensed/certified interpreter fluent in ASL is obtained and interprets for the offender/youth during the hearing or other activity.
1. Due to the need to arrange for the interpreter, time limits for holding these hearings shall be extended for the length of time required to ensure the appearance of the interpreter.
  2. Facilities shall attempt whenever possible to utilize the interpreter by scheduling multiple hearings on the same day.
  3. A facility shall work in conjunction with the Divisions of Operations, Fiscal, and Reentry to determine the most efficient method of funding for the use of interpretive services. However, a facility shall make every effort to obtain the services of an interpreters through the QPA established for state agencies.

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4. Staff shall work cooperatively with the interpreter to ensure that the hearing proceeds efficiently and effectively.
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- F. Facilities shall ensure that offenders/youth with physical disabilities are made aware that they are subject to the same or similar security measures as other offenders/youth. For example, disabled offenders shall be subject to the same or similar search and shakedown procedures as other offenders/youth, consistent with their disability. For those offenders/youth students who must have special accommodations during these security measures, the Shift Supervisor shall provide directions to staff and the offender/youth regarding any modifications or accommodations that are to be made.
  - F. Facilities are encouraged to be as creative as possible to ensure that hearing impaired offenders/youth are able to communicate with staff, visitors and other offenders/youth. Facilities may use licensed/certified interpreters, computers with voice recognition software, interpretation equipment, TTY telephone equipment, staff, other offenders/youth or any other appropriate mechanism to ensure proper communication.
  - G. The Department shall assign staff to routinely investigate and assess equipment that may be available to assist offenders/youth with physical disabilities to function adequately within the facilities.
  - H. An educational contract provider shall be responsible to provide an interpreter for offenders/youth requiring assistance during classroom instruction for ABE/TASC and vocational classes.

## VIII. EMERGENCY PROCEDURES

- A. All facilities housing disabled offenders/youth shall ensure that emergency procedures are developed which call for the safe evacuation of all offenders/youth, including offenders/students with disabilities.
- B. Staff shall be trained in any special accommodations that will be made for disabled offenders/youth and their evacuation during emergency situations.
- C. Offenders/youth with disabilities shall be instructed on the procedures they are to follow in cases where they must evacuate the building and how they may obtain additional assistance during the evacuation.



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- D. Additionally, offenders/youth with disabilities shall be instructed on the procedures in cases of personal emergency and how to communicate their needs with staff in a timely manner.

IX. CONTRACTUAL FACILITIES

All facilities contracting with the Department to house offenders committed to the Department shall ensure that they have adequate procedures in place to ensure effective communication with offenders and visitors who are physically disabled. Minimally, these contractual facilities shall meet the requirements as presented in this policy and administrative procedure.

X. APPLICABILITY

This policy and administrative procedure is applicable to all Department facilities.

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signature on file  
Robert E. Carter, Jr.  
Commissioner

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Date