



Americans with Disabilities Act (ADA)

Revised: 11-01-18

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream and to participate in State and local government programs and services.

The Department of Justice (DOJ) has issued revised Americans with Disabilities Act (ADA) Title II regulations which took effect March 15, 2011. These regulations affect the obligations of Title II public entities (state and local government entities) that are responsible for the operation or management of adult and juvenile justice jails, detention and correctional facilities, and community correctional facilities, either directly or through contractual, licensing, or other arrangements with public or private entities, in whole or part, including private correctional facilities.

The revised regulations state that public entities shall ensure that qualified offenders with disabilities shall not, because a facility is inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

The Illinois Department of Corrections Administrative Directive 04.01.11 states that the Department shall not discriminate against offenders with known disabilities and shall provide reasonable accommodations to ensure access to programs, activities and services in accordance with the Americans with Disabilities Act.

Offenders with disabilities must be housed in the most integrated setting appropriate to the needs of the individuals. This means there needs to be accessible housing in all security classifications and/or program levels of a facility. Also, qualified offenders with disabilities should have access to all programs to which they would otherwise be entitled, including educational, vocational, work release, employment, and religious programs, whether mandatory or voluntary. Unless it is appropriate to make an exception, public entities shall not place offenders with disabilities:

- In inappropriate security classifications because no accessible cells or beds are available;
- In medical areas unless they are actually receiving medical care or treatment;
- In facilities that do not offer the same programs as facilities where they otherwise would be housed; and
- In distant facilities where they would otherwise not be housed that would deprive them of visitation with family members.

Offender Complaints

Offenders with disabilities allege a wide variety of ADA violations at state and local correction and detention facilities. The three most common types of allegations involve:

1. denial of access or unequal access to the facility's programs and activities;
2. lack of effective communication for offenders who are deaf or hard of hearing and those who are blind or have low vision;
3. denial of access to disability-related medical services and devices.

Many complaints allege lack of accessible cells, toilets, and showers, steeply sloped sidewalks and floors or steps which keep offenders with mobility disabilities from accessing essential areas such as dining halls, libraries, and medical facilities. Others allege lack of assistance for those who require help with daily activities such as toileting, showering, or feeding.

In some facilities, offenders with disabilities are housed in the infirmary, segregated from the general population and unable to participate in the programs and activities available to other offenders. Visitors with disabilities also face difficulties due to lack of accessible parking, entrances, and visitation areas.

Effective Communication of Complaints

Offenders with hearing and speech disabilities have complained about lack of TTYs and about policies that limit the length of telephone calls, denying them an equal opportunity to communicate with family members and friends because TTYs function in a way that takes longer than regular telephone calls. Offenders with hearing disabilities have been denied sign language interpreters for classification interviews, critical medical appointments, and required classes and treatment programs and have missed medical appointments, pill call, or meals because these events were only announced orally. Many offenders with vision disabilities are denied access to books on tape, tape players, or large print or Braille reading materials, even though these are available at no cost through the Library of Congress.

Medical Services and Device Complaints

Generally, state government agencies are not required to provide personal devices for citizens with disabilities. However, prisons are required to provide necessary devices such as eyeglasses, hearing aids, wheelchairs, walkers, and canes, necessary medical equipment such as catheters, urine bags, and prescribed orthopedic shoes, and necessary medications such as insulin and seizure medications for offenders with disabilities. Failure to provide such devices, equipment,

or medication is a frequent complaint. Offenders with diabetes have also complained of not being able to test their blood sugar levels or get the proper diet prescribed by prison doctors.

Examples of How We Deal with Such Complaints

All too often focus is placed on a broad relief affecting large numbers of offenders in a prison such as modifications to provide physical access to cells, toilets, showers, and dining halls or the adoption of ADA-compliant effective communications policies. Accommodations more often are utilized to provide relief to individuals:

- a treatment program in an accessible location for an offender with a mobility disability
- implementation of an ADA Individualized Communication Plan (DOC0401) to work with a hearing impaired offender
- a prosthetic leg for an offender that allows the offender to live in the general population instead of the infirmary and to participate more fully in the activities available for offenders
- aides (attendants) to assist an offender with no arms in eating and other activities of daily living
- aides (attendants) to assist an offender who uses a wheelchair in getting around the prison facility
- sign language interpreters enabling a deaf offender to participate in educational programs and/or a treatment program
- TTYs for offenders
- providing a vibrating watch to a deaf offender
- providing a talking watch to a blind offender
- requiring staff to directly locate and speak face to face to an offender when making announcements
- talking books and magnifiers for offenders with vision disabilities
- permitting an offender with a disability to be considered for a job
- permitting a visitor who uses a portable oxygen tank to visit

Prison officials are not required to provide accommodations that impose “undue financial and administrative burdens” or require “a fundamental alteration in the nature of [the] program.” Prison officials are also allowed to discriminate if the disabled offenders’ participation would pose “significant health and safety risks” or a “direct threat” to others.

Discipline

In relating ADA to DR504 a few areas should be considered while imposing rule violations within IDOC. It is recognized that discipline is necessary to properly operate a correctional facility and that a disability does not exempt an offender from following rules. Although, an offender's disability should be considered when implementing discipline within IDOC; the following are a few examples:

- Mobility Issues / Wheelchair Accessibility – Was the offender given ample time to arrive at a location? (Failure to Report)
- Blind / Vision Impaired – Was the offender able to read and/or understand a call pass that was issued? (Failure to Report)
Offender was found in possession of a magnifying lens. Does the offender possess a permit for the item? (Unauthorized Property)
Does the offender understand the documents presented to them? Were they read to the offender? Was the offender asked if they understand the documents? (Serving Disciplinary Reports)
- Deaf / Hearing Impaired – How do you know that the offender heard the order given? (Disobeying a Direct Order)
Does the offender speak with his/her hands, in expressing communication? (Insolence)

This serves as simple examples regarding a few of the issues faced when dealing with the disciplinary process and ADA.

Communication

Successful communication requires the efforts of all people involved in a conversation. Even when the person with hearing loss utilizes hearing aids and active listening strategies, it is crucial that others involved in the communication process consistently use good communication strategies, including the following:

- **Face the hearing impaired person directly**, on the same level and in good light whenever possible. Position yourself so that the light is shining on the speaker's face, not in the eyes of the listener.
- **Do not talk from another room.** Not being able to see each other when talking is a common reason people have difficulty understanding what is said.

- **Speak clearly, slowly, distinctly, but naturally, without shouting or exaggerating mouth movements.** Shouting distorts the sound of speech and may make speech reading more difficult.
- **Say the person's name before beginning a conversation.** This gives the listener a chance to focus attention and reduces the chance of missing words at the beginning of the conversation.
- **Avoid talking too rapidly or using sentences that are too complex.** Slow down a little, pause between sentences or phrases, and wait to make sure you have been understood before going on.
- **Keep your hands away from your face while talking.** If you are eating, chewing, etc. while talking, your speech will be more difficult to understand. Beards and mustaches can also interfere with the ability of the hearing impaired to speech read.
- If the hearing impaired listener hears better in one ear than the other, try to make a point of remembering which ear is better so that you will **know where to position yourself.**
- **Be aware of possible distortion of sounds for the hearing impaired person.** They may hear your voice, but still may have difficulty understanding some words.
- Most hearing impaired people have greater difficulty understanding speech when there is background noise. **Try to minimize extraneous noise when talking.**
- Some people with hearing loss are very sensitive to loud sounds. This reduced tolerance for loud sounds is not uncommon. **Avoid situations where there will be loud sounds when possible.**
- If the hearing impaired person has difficulty understanding a particular phrase or word, **try to find a different way of saying the same thing,** rather than repeating the original words over and over.
- **Acquaint the listener with the general topic of the conversation.** Avoid sudden changes of topic. If the subject is changed, tell the hearing impaired person what you are talking about now. In a group setting, repeat questions or key facts before continuing with the discussion.
- If you are giving specific information -- such as time, place or phone numbers -- to someone who is hearing impaired, **have them repeat the specifics back to you.** Many numbers and words sound alike.
- Whenever possible, **provide pertinent information in writing,** such as directions, schedules, work assignments, etc.
- **Recognize that everyone, especially the hard-of-hearing, has a harder time hearing and understanding when ill or tired.**
- **Pay attention to the listener.** A puzzled look may indicate misunderstanding. Tactfully ask the hearing impaired person if they understood you, or ask leading questions so you know your message got across.
- **Take turns speaking** and avoid interrupting other speakers.

If the offender requires accommodation beyond the assistance of a hearing aid, an ADA Individualized Communication Plan, DOC 0401 will need to be developed. A Qualified Specialist will eventually be utilized to develop the plan with the offender and in coordination with the ADA Coordinator. However, until the Qualified Specialists are appointed, the ADA Coordinator needs to develop and ensure a communication plan is in place for the offender. The original DOC 0401 shall be maintained in the offender's master file and a copy shall be placed in the offender's medical file. Copies shall also be provided to the Agency ADA Compliance Officer and to the offender. The communication plan may include, but shall not be limited to:

1. Authorization for optional identification showing the offender as deaf or hard of hearing.
2. Alternative notification methods for auditory announcements.
3. Authorization for special permit items and auxiliary aids such as visual aids, written material, flashcards, word processing hardware, TTY, closed caption televisions, assistive listening system or devices used to amplify sound, or qualified sign language interpreters.
4. Coordination of communication accommodations when the information being relayed is complex, exchanged for a lengthy period of time, or involves legal due process. This may include, but is not limited to, communications such as:
 - a. Orientation;
 - b. Counseling;
 - c. Educational and vocational programming;
 - d. Medical and mental health services;
 - e. Religious services;
 - f. Due process hearings, including disciplinary hearings;
 - g. Pre-release instructions.

Additionally, if a Deaf and Hard of Hearing offender utilizes their hands as a primary means of communication through gesturing, sign language or written communication, it is Department policy to remove security hand restraints for communication purposes (IDOC Operations Bulletin 18-002). If identifiable security risks with removing hand restraints are indicated, those risks shall be documented, in writing and approved by a Shift Supervisor or above. Should hand restraints be removed from offenders in confinement status or while on an outside writ for communication purposes, the offender must minimally be restrained with leg restraints that can be attached to a permanently affixed security device or object. A waist restraint must also be utilized with security staff utilizing a lead chain.

Concerns

If you encounter a concern in dealing with an individual with a disability, such as a change in their mobility or ability to communicate you should document this concern. Complete a DC434 clearly describing your observation or concern and notify a supervisor of this concern. Many

offenders tend to hide their disabilities for a variety of reasons. You, as frontline staff, are often the first observer when issues or concerns arise.

Conclusion

It is important to understand that as a correctional professional you will encounter offenders with varied backgrounds and varied abilities. This may include offenders who suffer from mental illness, vision impairment, hearing impairment, and/or mobility issues; to name a few. Each must be afforded the appropriate accommodation to allow them to function in the prison environment. This must be done to stay within the guidelines of the law, the Americans with Disabilities Act. For information regarding specific offenders or overall questions regarding ADA please consult with your facility ADA Coordinator.



Illinois Department of Corrections

Americans with Disabilities Act (ADA)

PURPOSE AND SCOPE

To provide a written manual / training that provides guidance towards implementing the Americans with Disabilities Act (ADA) within the Illinois Department of Corrections. This manual will assist the facility in providing the following:

- Basic awareness to ADA
- Mindset in determining appropriate accommodations
- Resources to assist in dealing with ADA issues as they arise

PERFORMANCE OBJECTIVES

1. Understanding the Americans with Disabilities Act and how it relates to the Illinois Department of Corrections
2. Understand Administrative Directive 04.01.111 ADA Accommodations and 04.01.114 Local Offender Grievance Procedure
3. Develop an operating knowledge of the definitions and terms of the Americans with Disabilities Act and how to apply them to the daily operation of the facility
4. Cultivate an understanding of the different roles and responsibilities designated within a facility when dealing with an ADA Accommodation request.
5. How to manage the grievance process when dealing with ADA issues.
6. Learn how to develop a process within the facility to handle any ADA Accommodation requests and being able to organize a reasonable action plan
7. Learn about the different ADA issues that can present themselves at the facility.
8. Be able to gather information from multiple areas of the facility and decided upon a course of action in relation to the ADA request and the operational guidelines of the facility and the department.
9. Be an effective, informed team member to support the CAO in dealing with ADA grievances, placement, and reasonable accommodations.
10. Develop a knowledge of the resources available to the facility from both inside the department and outside in the local or statewide community.
11. Communicate and collaborate with other ADA Coordinators in the department.
12. Ensure proper documentation is completed and organized for the facility when dealing with ADA Accommodations.

INTRODUCTION

History

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, by President George H.W. Bush. The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life -- to enjoy employment opportunities, to purchase goods and services, and to participate in State and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin – and Section 504 of the Rehabilitation Act of 1973 -- the ADA is an "equal opportunity" law for people with disabilities.

To be protected by the ADA, one must have a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. ***The ADA does not specifically name all of the impairments that are covered.***

Title II

Title II applies to State and local government entities, and, in subtitle A, protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by State and local government entities. Title II extends the prohibition on discrimination established by section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, to ***all activities of State*** and local governments regardless of whether these entities receive Federal financial assistance.

Corrections

The Department of Justice (DOJ) has issued revised Americans with Disabilities Act (ADA) Title II regulations which took effect March 15, 2011. These regulations affect the obligations of Title II public entities (state and local government entities) that are responsible for the operation or management of adult and juvenile justice jails, detention and correctional facilities, and community correctional facilities, either directly or through contractual, licensing, or other arrangements with public or private entities, in whole or part, including private correctional facilities.

The revised regulations state that public entities shall ensure that qualified offenders with disabilities shall not, because a facility is inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

Offenders with disabilities must be housed in the most integrated setting appropriate to the needs of the individuals. This means there needs to be accessible housing in all security classifications and/or program levels of a facility. Also, qualified offenders with disabilities should have access to all programs to which they would otherwise be entitled, including educational, vocational, work release, employment, and religious programs, whether mandatory or voluntary. Unless it is appropriate to make an exception, public entities shall not place offenders with disabilities:

- In inappropriate security classifications because no accessible cells or beds are available;
- In medical areas unless they are actually receiving medical care or treatment;
- In facilities that do not offer the same programs as facilities where they otherwise would be housed; and
- In distant facilities where they would otherwise not be housed that would deprive them of visitation with family members.

DEFINITIONS

ADA disability accommodation – means a modification or adjustment to the process or environment that will enable offenders with a disability, who are otherwise qualified, to access a program, activity, or service provided by the Department.

Americans with Disabilities Act (ADA) – means 42 USC 12101, et seq., Title II of the Americans with Disabilities Act Amendments of 2008.

Deaf – for the purpose of this directive means a condition where auditory function is not sufficient to process speech and language.

Hard of hearing – for the purpose of this directive means a condition where auditory function may or may not be sufficient to hear sound and where there is a difficulty distinguishing specific speech patterns in conversation.

Interactive dialogue – for the purpose of this directive means a face-to-face communication in response to an offender's request for ADA disability accommodation used to identify the precise limitations resulting from the disability and potential reasonable accommodations that could be provided to enable the offender to effectively access programs, activities, and services provided by the Department for which he or she would otherwise be qualified.

Teletypewriter equipment (TTY) - An electromechanical typewriter or device that either transmits or receives messages whereby an operator acts as facilitator between individuals by converting spoken conversation to text or text to audible conversation.

ACT means the Americans with Disabilities Act (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611).

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids and services includes—

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

Complete complaint means a written statement that contains the complainant's name and address and describes the public entity's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of this part. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in § 35.139.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

The phrase physical or mental impairment means—

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;
2. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

- The phrase physical or mental impairment does not include homosexuality or bisexuality.
- The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities

The phrase is regarded as having an impairment means—

1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

The term disability does not include—

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Individual with a disability means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Public entity means—

1. Any State or local government;
2. Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
3. The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

Qualified individual with a disability means an individual 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.

Qualified interpreter means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral translators, and cued-language translators.

Qualified reader means a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

Video remote interpreting (VRI) service means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in § 35.160(d).

Wheelchair means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207 (c)(2).

COMPLAINTS / ACCOMMODATIONS

All facilities within the Illinois Department of Corrections must comply with the Americans with Disabilities Act. Some facilities however, have been designated to house offenders with specific disabilities.

Examples of Some Services Requiring Accommodations

- Jobs
- Education
- Phone calls
- Commissary
- Drug treatment
- Religious services
- Segregation
- Visitation programs
- All security levels
- Housing and cell assignment
- Medical and mental health services
- Sex offender treatment programs
- Medical and mental health screening
- Access to toilets, showers, food, and recreation

IDOC Policies & Forms Relating to ADA

- AD 04.01.111 – ADA Accommodations
- AD 04.01.114 – Local Grievance Procedures
- DOC 0401 – ADA Individualized Communication Plan and Permit

Offender Complaints

Offenders with disabilities allege a wide variety of ADA violations at state and local correction and detention facilities. The three most common types of allegations involve:

1. denial of access or unequal access to the facility's programs and activities;
2. lack of effective communication for offenders who are deaf or hard of hearing and those who are blind or have low vision;
3. denial of access to disability-related medical services and devices.

Many complaints allege lack of accessible cells, toilets, and showers, steeply sloped sidewalks and floors or steps which keep offenders with mobility disabilities from accessing essential areas such as dining halls, libraries, and medical facilities. Others allege lack of assistance for those who require help with daily activities such as toileting, showering, or feeding.

In some facilities, offenders with disabilities are housed in the infirmary, segregated from the general population and unable to participate in the programs and activities available to other offenders. Visitors with disabilities also face difficulties due to lack of accessible parking, entrances, and visitation areas.

EFFECTIVE COMMUNICATION COMPLAINTS

Offenders with hearing and speech disabilities have complained about lack of TTYs and about policies that limit the length of telephone calls, denying them an equal opportunity to communicate with family members and friends because TTYs function in a way that takes longer than regular telephone calls. Offenders with hearing disabilities have been denied sign language interpreters for classification interviews, critical medical appointments, and required classes and treatment programs and have missed medical appointments, pill call, or meals because these events were only announced orally. Many offenders with vision disabilities are denied access to books on tape, tape players, or large print or Braille reading materials, even though these are available at no cost through the Library of Congress.

MEDICAL SERVICE AND DEVICE COMPLAINTS

Generally, state government agencies are not required to provide personal devices for citizens with disabilities. However, prisons are required to provide necessary devices such as eyeglasses, hearing aids, wheelchairs, walkers, and canes, necessary medical equipment such as catheters, urine bags, and prescribed orthopedic shoes, and necessary medications such as insulin and seizure medications for offenders with disabilities. Failure to provide such devices, equipment, or medication is a frequent complaint. Offenders with diabetes have also complained of not being able to test their blood sugar levels or get the proper diet prescribed by prison doctors.

EXAMPLES OF HOW WE DEAL WITH SUCH COMPLAINTS

All too often focus is placed on a broad relief affecting large numbers of offenders in a prison such as modifications to provide physical access to cells, toilets, showers, and dining halls or the adoption of ADA-compliant effective communications policies. Accommodations more often are utilized to provide relief to individuals:

- a treatment program in an accessible location for an offender with a mobility disability

- a prosthetic leg for an offender that allows the offender to live in the general population instead of the infirmary and to participate more fully in the activities available for offenders
- aides to assist an offender with no arms in eating and other activities of daily living
- assist an offender who uses a wheelchair in getting around the prison facility
- sign language interpreters enabling a deaf offender to participate in educational programs and/or a treatment program
- TTYs for offenders
- talking books and magnifiers for offenders with vision disabilities
- permitting an offender with a disability to be considered for a job
- permitting a visitor who uses a portable oxygen tank to visit

Prison officials are not required to provide accommodations that impose “undue financial and administrative burdens” or require “a fundamental alteration in the nature of [the] program.” Prison officials are also allowed to discriminate if the disabled offenders’ participation would pose “significant health and safety risks” or a “direct threat” to others.

REQUESTS FOR ADA ACCOMODATIONS

Requests for an accommodation shall be made in writing on the “Offender Request” form (DOC 0286) and directed to the Facility ADA Coordinator. If the offender has limited writing or language skills, they may request assistance from their counselor in completing the Offender Request form. When completing an Offender Request for an ADA accommodation, the offender must identify:

1. the program, activity, or service being offered by your facility
2. how your disability limits your ability to use the service, activity or program in the same way that other offenders would be able use it, and
3. what assistance you would like your facility to give you that will help you overcome your limitations and make it possible for you to use the service, activity, or program

The Department will determine whether an accommodation is appropriate on a case-by-case basis.

DEAF AND HARD OF HEARING COMMUNICATION PLAN

The offender may make a request for a “communications plan” for effective communications if they are deaf or hard of hearing. The Facility ADA Coordinator will work with the offender to develop a communication plan. A Qualified Specialist will eventually be responsible for developing the offender’s communication plan and will coordinate the communication plan with

the ADA Coordinator at the respective facility. Accommodations may include written material, notification of daily activities, sign language interpretation services, hearing aids, amplifying/assistive listening technology, teletypewriter (TTY) phone usage, closed captioned televisions, and other auxiliary aids and services.

- MEDICAL: All requests of a medical nature such as hearing aids will require a medical examination.
- TTY EQUIPMENT: Offenders using TTY equipment will be allowed three times the amount of time allowed for regular phone calls. Like regular phone calls, TTY calls are subject to monitoring except for scheduled legal calls.
- SIGN LANGUAGE: If sign language is their primary language, they should tell the counselor and request that the Facility ADA Coordinator be notified. They may request a sign language interpreter for interactions that are complex, lengthy, or involve legal due process. Significant interactions that may require a sign interpreter include: introduction to facility rules, counseling sessions, educational and vocational programs, medical & mental health services, religious and other group setting services, due process procedures including disciplinary hearings and prisoner review board hearings, and field services' pre-release instructions.

If the offender requires accommodation beyond the assistance of a hearing aid, an ADA Individualized Communication Plan, DOC 0401 will need to be developed. A Qualified Specialist will eventually be utilized to develop the plan with the offender and in coordination with the ADA Coordinator. However, until the Qualified Specialists are appointed, the ADA Coordinator needs to develop and ensure a communication plan is in place for the offender. The original DOC 0401 shall be maintained in the offender's master file and a copy shall be placed in the offender's medical file. Copies shall also be provided to the Agency ADA Compliance Officer and to the offender. The communication plan may include, but shall not be limited to:

1. Authorization for optional identification showing the offender as deaf or hard of hearing.
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 - a. Orientation;
 - b. Counseling;
 - c. Educational and vocational programming;
 - d. Medical and mental health services;
 - e. Religious services;

- f. Due process hearings, including disciplinary hearings;
- g. Pre-release instructions.

Provide notification to vendors, community partners, and other service providers with whom the offender interacts to inform them when they need to provide accommodation. Such notification shall include the need for a sign interpreter for medical writs, Prisoner Review Board hearings, custodial interviews with state agencies, and court writs.

VIBRATING WRIST WATCH / TALKING WRIST WATCH

Offenders may be approved to purchase or use a vibrating or talking wrist watch with an alarm function as an accommodation for a hearing impaired offender pursuant to requirements for reasonable accommodations under the American's With Disabilities Act. The Chief Administrative Officer may approve the watch as a personal property item if the facility ADA Coordinator is recommending it as a reasonable accommodation for a deaf, severe hearing impairment, sever sight impaired, or blind offender.

Once approved, the facility shall issue a personal property permit for the watch. The facility shall periodically monitor the property to confirm that the offender has not tampered with the alarm mechanism nor transferred possession of the property to another offender.

Be advised that it is the facility's responsibility to provide this to the offender free of cost to the offender.

HEADPHONE FOR HEARING IMPAIRED OFFENDER

As the ADA Coordinator of your respective facility, you are the team leader that deals with and provides direction on reasonable ADA accommodations that are requested by the offenders in the facility. This direction is to provide clear direction and an example on providing the ADA accommodation of authorized assistive headphones to an offender that has been provided the accommodation from the medical department of your facility. If an offender makes an ADA accommodation request to obtain assistive headphones, please follow the procedure listed below:

1. After reading the request, verify with the medical department that the ADA accommodation has been ordered.
2. Notify Command staff via written memo of the ordered ADA accommodation.
3. Have facility issue the offender the assistive headphones. Ensure that the issue of this assistive communication tool is processed through the property procedure at your facility.
4. Record the issuance of the ADA accommodation communication aid in the CHAMPs program *and* the medical record.

Be advised that it is the facility's responsibility to provide the assistive headphones to the offender free of cost to the offender.

AMERICAN SIGN LANGUAGE VIDEO REMOTE INTERPRETATION

This procedure is to provide clear direction on how to successfully access the American Sign Language video remote interpretation services for an offender. The American Sign Language video remote interpretation service can be used for any level of communication. The service is a videoconference based service.

When a staff member has been informed or assesses that an offender is going to need American Sign Language video remote interpretation service to competently understand the communication, he/she shall follow the below procedure:

1. Determine that American Sign Language video remote interpretive services are needed. Determine the reason and content of the interview in order to make the time on the system efficient and clear.
2. Contact direct supervisor to inform of the situation that requires the American Sign Language video remote interpretation service. The supervisor is to contact the Assistant Warden of Programs to notify that the language interpretation service is required.
3. Complete the Video Remote Interpreting Service Tracking Form (DOC 0396). Inform the offender that the service will be provided free of charge. Ensure when completing the Video Remote Interpreting Service Tracking Form (DOC 0396), the reason for the communication is clearly documented. The staff member is to make required comments on the form and then forward the form to the Assistant Warden of Programs Office for authorization.
4. After receiving written authorization from the Assistant Warden of Programs Office, the staff member will schedule the American Sign Language video remote interpretive service with the offender. The authorized and completed Video Remote Interpreting Service Tracking Form (DOC 0396) will be placed in the offender's Master file for record keeping purposes. The facility ADA Coordinator will inspect the offender's ADA Individualized Communication Plan and Permit (DOC 0401) and amend to include the accommodation for American Sign Language video interpretation service needs. A copy of the completed Video Remote Interpreting Service Tracking Form (DOC 0396) will be sent to the Agency ADA Compliance Officer for informational and tracking purposes. (In the event that an emergency situation arises, a verbal authorization can be used in order to proceed with the American Sign Language video remote interpretive service. Be advised, if verbal authorization is given, the authorization is documented on the staff member's DC 434.)
5. Contact your facility's video conference equipment coordinator and provide them a copy of the completed Video Remote Interpreting Service Tracking Form (DOC 0396). They will contact Video Conference Coordinator at Concordia to coordinate the date and time of the American Sign Language video remote interpretation service. At the appointed time the video conference equipment coordinator will have to use the **IP address of: 50.73.109.119** to open the interpretive session.
6. After notification to the video conference coordinator, contact The Center for Sight and Hearing at (815) 332-6800 to notify of the need for an appointment to provide American Sign Language interpretation service. The Center for Sight and Hearing will confirm the scheduled appointment for American Sign Language Translation interpretation service.

Fax a copy of the signed Video Remote Interpreting Service Tracking Form (DOC 0396) for notification purposes to The Center for Sight and Hearing.

7. Bring offender to the space that has the ability to use the video conference equipment for complete and open communication with a staff member present.
8. The staff member present will facilitate the communication with the offender until both are satisfied with the understanding of the communication.
9. Information of the interpretive session will be documented in CHAMPs. Please ensure that the subject of the interview and the content that was interpreted is annotated in the entry.
10. Provide DC 434 detailing the date and time of the American Sign Language video remote interpretive service, along with the name and number of the offender, and conclude with the duration of the interpretation session.

FOREIGN LANGUAGE TRANSLATION

This procedure is to provide clear direction on how to successfully access the language interpretation services for an offender. The interpretation service can be used for over 600 different languages. The service is a telephone based service.

When a staff member has been informed or assesses that an offender is going to need language interpretation services to competently understand the communication , he/she have the ability to follow the procedure set forth below:

1. Determine that language interpretive services are needed. Determine the language that will need to be translated for complete understanding of the offender.
2. Contact direct supervisor to inform of the situation that requires the language interpretation services. The supervisor is to contact the Assistant Warden of Programs to notify that the language interpretation service is required.
3. Assist the offender in completing an Offender Request Form (DOC 0286). Inform the offender that the service will be provided free of charge. Ensure when completing the Offender Request Form, the reason for the communication is clearly documented and the language that needs to be translated is clearly documented. The staff member is to make required comments on the form and then forward the form to the Assistant Warden of Programs Office for authorization.
4. After receiving written authorization from the Assistant Warden of Programs Office, the staff member will schedule the language interpretation service with the offender. The authorized Offender Request Form (DOC 0286) will be placed in the offender's Master file for record keeping purposes. (In the event that an emergency situation arises, a verbal authorization can be used in order to proceed with the language translation service. Be advised, if verbal authorization is given, the authorization is documented on the staff member's DC 434.)

5. Bring offender to a space that has the ability to use a speaker phone for complete and open communication with a staff member present.
6. Contact **Propio Language Services LLC**, at 1-866-828-3280.
7. Select Language. Spanish-Option 1(attendant will assist)
 - i. Other- Option 2 (attendant will assist)
8. Provide: Acct. Number 3872 (Number for whole department)
9. Confirm: Name of Offender. First name and first initial of last name.
10. The attendant will assist with the transfer to an appropriate interpreter. The staff member present will facilitate the communication with the offender until both are satisfied with the understanding of the communication.
11. Information of the interpretive session will be documented in CHAMPS. Please ensure that the subject of the interview and the language that was interpreted is annotated in the entry.
12. Provide DC 434 detailing the date and time of the language translation service, along with the name and number of the offender, and conclude with the duration of the call.

AD 04.01.114 – LOCAL GRIEVANCE PROCEDURES

“The Department shall establish and maintain a local grievance process for addressing offender grievances within the facilities.” – Policy Statement AD 04.01.114

Grievances regarding alleged discrimination based on disability or denied requests for accommodation to access programs, activities, or services based on disability, shall be promptly forwarded to the Facility American’s with Disability Act (ADA) Coordinator who shall:

- i. Within five business days of receipt, begin the investigation of the allegations, including interactive dialogue with the offender, to identify physical and mental limitations and what accommodations may enable access. Interactive dialogue shall be documented in the Case History and Management Program System (CHAMPS);
- ii. Determine if the allegation is an ADA issue. Non-ADA grievances shall be promptly returned to the Grievance Officer.
- iii. Complete and submit the “Grievance Officer’s Report” section of the Response to Offender’s Grievance, DOC 0047, including his or her recommendations to the Chief Administrative Officer for final determination.
- iv. Issue, or arrange for issue, permits and approval for reasonable accommodation in accordance with the Chief Administrative Officer’s final determination.
- v. Notify the Agency ADA Compliance Officer of ADA accommodations.

The Chief Administrative Officer shall make reasonable efforts within two months of the receipt of the grievance to:

1. Review the material submitted by the Grievance Officer, facility ADA Coordinator, or Facility Privacy Officer, respectively.

2. Render and document the decision in the “Chief Administrative Officer’s” section of the DOC 0047.
3. Forward a copy of the completed DOC 0047 to the offender and to the Records Office for inclusion in the offender’s master file.
4. If applicable, notify the facility ADA Coordinator of his or her final determination.

FACILITY APPLICATION

- The ADA Coordinator is the spearhead for a multi-departmental team in the facility.
- Develop open communication channels with the different departments in your facility. I would not be out of the ordinary that when you are investigating a grievance or request form, that you will speak to operations, as much as programs staff members.
- Make contact with the Healthcare Unit Administrator in your facility, They will be a major source of up to date information on the offender’s current health status and medical history. The HCUA will be able to keep you informed of any ADA reasonable accommodations in the offender’s history.
- Investigate and make contact with the local assets in your area. Deaf Interpreters, disability assessors, wheelchair repair, and other assistive assets in your local community.
- Become familiar with the specific forms that are to be completed and submitted for review.
- Be a source of honest and mature advice to your CAO when dealing with making a reasonable accommodation.
- Know your facility. Know how many ADA mobility cells your facility has in operation. Know how many are filled at any given time.
- Understand your facilities grounds in relation to offenders that are mobility impaired. When an issue arises document with CAO and Chief Engineer.
- When having the “interactive dialogue” with the offender, understand the issue and the accommodation requested. If you, as the ADA Coordinator, are confused about the request from the offender, research the issue.
- Develop a Communication Plan for all offenders that might need any reasonable accommodations. Ensure that the Communication Plan is filed in the Master file.
- Keep a report listing the offenders and their reasonable accommodations that are in operation. Track the accommodations. Ensure that the accommodation that is requested has back-up from the Healthcare Unit. Keep an up to date file on any grievances that have been checked “ADA”.
- Contemplate new strategies to aid your facility in dealing with the different accommodations that are being requested.
- Know your local assets for interpretive needs, assistive technology, and the other assets that the other facilities in your district use frequently.

- Be a resource for the other staff in your facility for answers when dealing with offenders that have ADA Accommodations.
- Work with the Administration of your facility to determine and acquire American Sign Language assessment and interpretation when needed. Determine when an interview could be managed by the Video Remote Interpretation or if an in-person interpretation is required.
- If you have the ability, provide some informational training at departmental meetings to inform other staff members of your role and duties.
- Keep in mind that the standard for all ADA accommodations is based on the “reasonable accommodation” mindset. Because a certain accommodation is requested does not mean that, the accommodation requested, is the ONLY accommodation that is available.
- Develop a database for supportive information (interpreters, special commissary needs) to accomplish the tasks that will be asked of you as an ADA Coordinator.
- Put together a folder of the forms that are used when dealing with many of the ADA issues and situations.
- Ensure that you have access to the ADA Sharepoint system.
- Develop your facility’s evacuation plan including any reasonable accommodations for offenders that need assistance whether they have mobility concerns, sight issues, or hearing notification difficulties.

FACILITY ADA ATTENDANT PROGRAM

The purpose of this program is to aid a facility operated by the Illinois Department of Corrections in developing and operating an effective and efficient ADA Attendant Program. This program is to be managed in the same manner as any other paying assignment in the facility. Although this assignment has a very specific purpose and specialized training attached to its implementation, the management and handling of the offenders involved are to be managed in the same manner as all the other assignments in the facility. The offenders must qualify via facility vote sheet and are required to complete training from the Healthcare Unit and Program’s staff members.

ADA COORDINATOR ANNUAL REPORT

- All grievances for that Fiscal Year; that were marked ADA with resolutions
- ADA Coordinator Appointment Letter Signed by the CAO
- ADA accommodations list of offenders
- Listing of ADA mobility issue cells and living units
- All completed communication plans
- Due by June 30 of each year

FREQUENTLY ASKED QUESTIONS (FAQ)

Q: Does the ADA apply to prisons?

Yes. Title II of the ADA, 42 U.S.C. §§ 12131-12134, applies to all state prisons

Q: Who is protected by the ADA?

"Qualified individuals with disabilities" are protected by the ADA. An individual with a disability is a person who meets one of the following three standards:

(1) The person has a mental or physical impairment that substantially limits one or more major life activities (such as walking, seeing, learning, hearing, interacting with others).

Examples: cerebral palsy; profound mental retardation; severe and persistent mental illness; HIV infection or AIDS.

(2) The person has a record of a mental or physical impairment that substantially limits a major life activity.

Example: history of heart disease

(3) The person is regarded as having a mental or physical impairment that substantially limits a major life activity.

Example: prison officials refuse to give a job to a person who had an isolated seizure - based on the mistaken belief that the job will trigger seizures.

An individual with a disability also must be "qualified" to be protected by the ADA. An inmate with a disability will be considered "qualified" if he can meet the essential eligibility requirements of the program, service, or activity with or without reasonable modifications to rules, policies or practices, with or without the removal of architectural or communication barriers, and with or without the provision of auxiliary aids and services (such as materials in Braille or sign language interpreters). For some prison services and activities, virtually all inmates are qualified. For other prison services and activities, eligibility may be limited.

Examples: All inmates are "qualified" for food services so that an inmate with uncontrolled diabetes who needs a special diet would be "qualified".

In contrast, if a prison requires a high school diploma or GED for admittance to college level courses, an inmate who is deaf and seeks an interpreter for such courses will only be eligible if he has a diploma or GED.

Q: What are some examples of the impact of the ADA on prisons?

- Prisons cannot bar qualified individuals from specific programs on the basis of their disability.

- Prisons must meet certain physical accessibility requirements to accommodate persons with mobility or other physical impairments.
- Prisons, under some circumstances, must provide sign language interpreters for persons who are deaf to enable them to participate in programs.
- Prisons must provide reasonable modifications to rules, policies, or practices to enable persons with disabilities to participate in the programs, services, and activities of the facility.

Q: If the prison fails to provide necessary or appropriate medical or mental health services, is that a violation of the ADA?

No, unless there are extraordinary circumstances. However, an inmate who does not receive necessary or appropriate medical or mental health treatment may have other claims depending on the circumstances.

CELL REQUIREMENTS and/or NEW CONSTRUCTION

New construction of jails, prisons, and other detention and correctional facilities shall comply with the 2010 Standards, effective March 12, 2012, except that public entities shall provide mobility features for at least 3%, but no fewer than one, of the total number of cells in such a facility. Cells with mobility features shall be provided in each classification level.

As required by the 2010 Standards, at least 2%, but no fewer than one, of the total number of general holding cells and general housing cells equipped with audible emergency alarm systems and permanently installed telephones within the cell shall provide communication features. Within this requirement, where audible emergency alarm systems are provided to service the occupants of cells, visible alarms shall be provided; however, visible alarms shall not be required where offenders or detainees are not allowed independent means of egress. Telephones, where provided within cells, shall have volume controls. (Sections 232 and 807, 2010 Standards)

Alterations to jails, prisons, and other detention and correctional facilities shall comply with the 2010 Standards, effective March 12, 2012, except that public entities shall provide accessible mobility features for a minimum of 3%, but no fewer than one, of the total number of cells being altered until at least 3%, but no fewer than one, of the total number of cells in the facility provide mobility features. Altered cells with mobility features shall be provided in each classification level.

However, when alterations are made to specific cells, facilities may satisfy their obligation to provide the required number of cells with mobility features by providing the required mobility features in substitute cells (cells other than those where alterations are originally planned), provided that the substitute cell is located within the same prison site, is integrated with other cells to the maximum extent feasible, and has equal physical access as the altered cells to areas

used by offenders or detainees for visitation, dining, recreation, educational programs, medical services, work programs, religious services, and other offered programs. If it is technically infeasible to locate a substitute cell within the same prison site, the substitute cell must be provided at another prison within the same system.

With respect to medical and long-term care facilities in jails, prisons, and other detention and correctional facilities, public entities shall apply the 2010 ADA Standards technical and scoping requirements for those facilities whether those facilities are licensed or not.

CELL REQUIREMENTS

While all aspects of law enforcement and correctional services are covered by these laws - including facilities, employment, transportation, and other activities, programs, and services - this guide focuses on the prevention of discrimination against inmates with mobility disabilities through the design of accessible cells.

Security

Accessible cells do not compromise the security of prison personnel. In fact, having accessible cells increases security because they allow inmates with mobility disabilities to function independently, minimizing the need for assistance from guards.

Basic Features

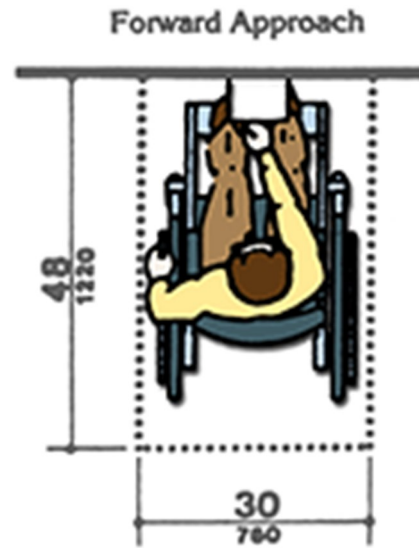
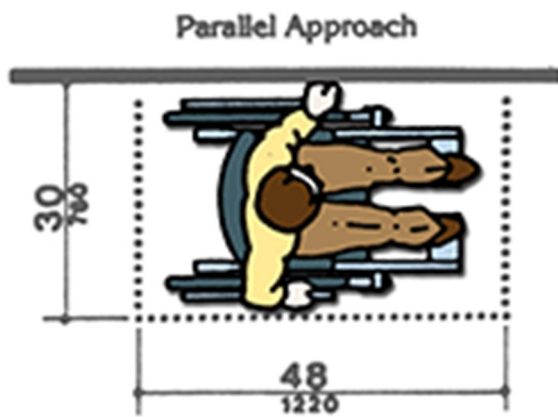
Inmates with disabilities - including those who use wheelchairs - need to be able to enter their cells and move around inside them, using the cells' features without assistance. What makes this possible? Careful planning and design will incorporate elements such as a wider entrance door, adequate clear floor space, appropriate placement and models of fixtures and furniture, and grab bars.

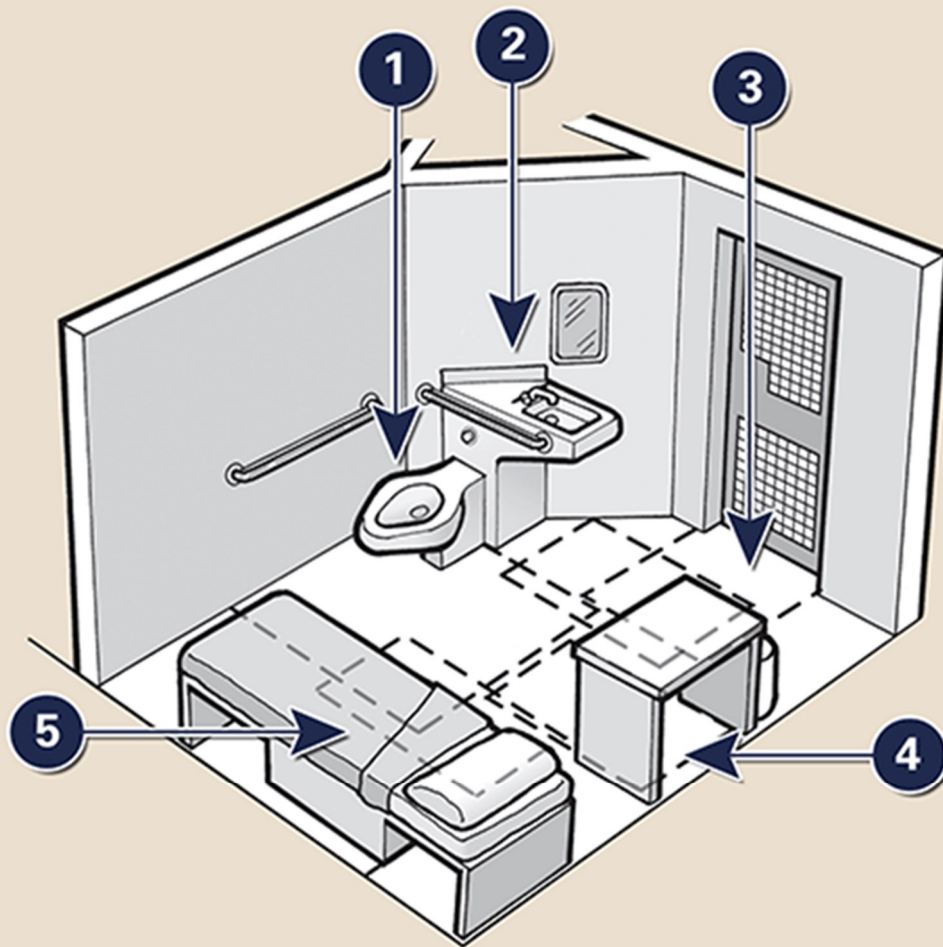
Location or Dispersion of Cells

Dispersing accessible cells throughout a facility ensures that inmates with disabilities are able to be housed with inmates of the same classification levels. Generally, inmates with disabilities who are not ill do not need to be housed in a medical ward.

Furniture and Cell Features

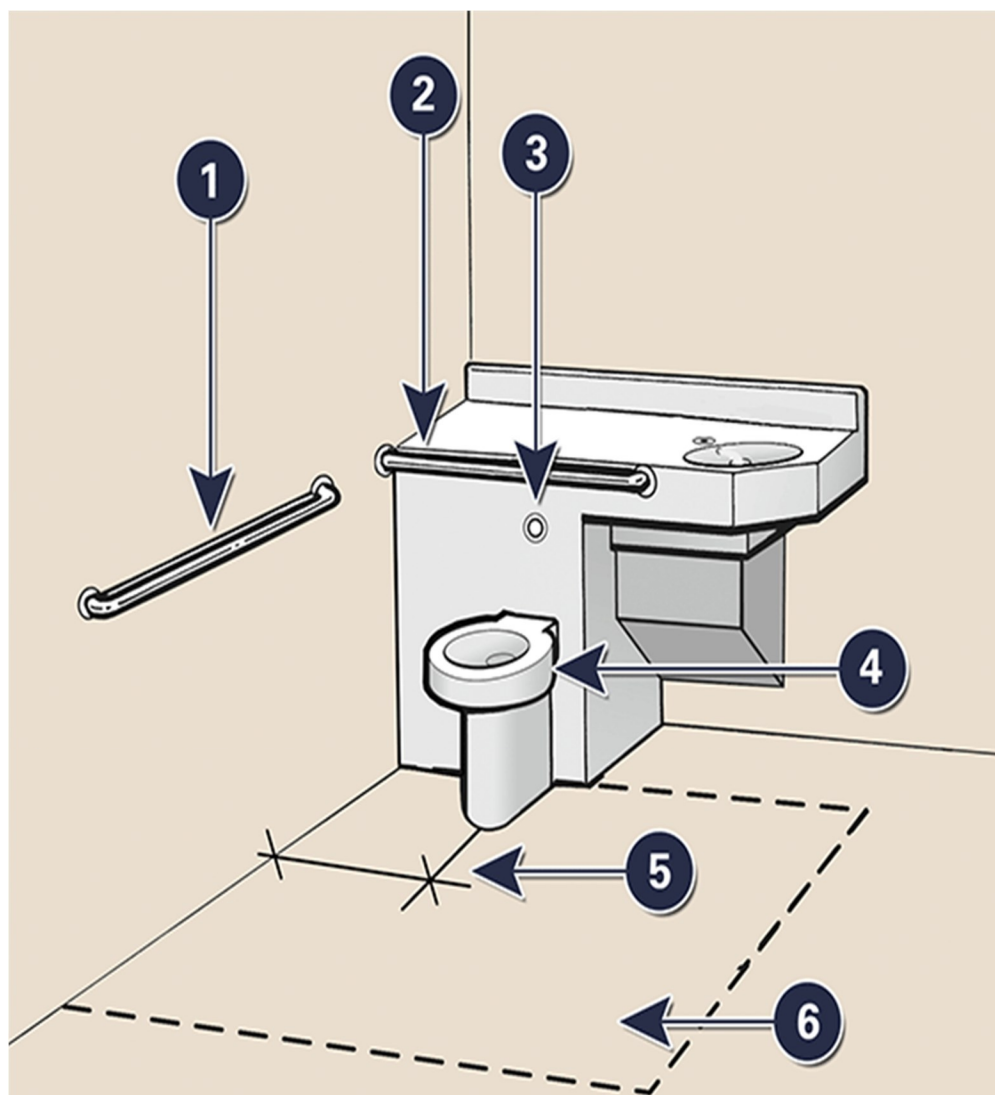
Accessible cells need to contain the same features as other cells for inmates housed at the same classification level. For instance, where other cells contain writing desks, accessible writing desks are needed in accessible cells.





1. Accessible toilet with rear and side grab bars, clear floor space for wheelchair transfer, and an accessible flush valve.
2. Accessible lavatory with knee and toe space below, faucet controls usable with a loosely closed fist, clear floor space for front approach, and lowered mirror.
3. Doors with 32 inches of clear opening width (when a sliding door is fully opened or a hinged door is open 90 degrees). Clear floor space is required in front of the door.
4. Desk with knee and toe space and clear floor space for front approach.
5. Bed with clear floor space for a side approach next to bed.

Appropriate clear floor space (shown by dashed lines) is needed adjacent to each cell feature (see page 1 diagrams on clear floor space). As shown in this drawing, the clear floor spaces for each element may overlap. Inmates with a mobility disability should be able to use, and move without obstruction among, the easily accessible features of their cells. There needs to be adequate turning space within the cell -- either a 60-inch-diameter circle or a T-shaped turn area. ([See diagrams on turning space.](#))



Drawing Notes:

1. Side grab bar: There is a grab bar on the adjacent side wall that is at least 40 inches long and from 33 to 36 inches above the floor.
2. Rear grab bar: There is a grab bar behind the toilet that is at least 36 inches long and from 33 to 36 inches above the floor.
3. Flush valve is located in reach range and is operable without tight grasping, twisting, or pinching.
4. Toilet seat height: The toilet seat needs to be from 17 to 19 inches above the floor to permit transfers to and from wheelchairs.
5. Toilet centerline: The toilet bowl needs to be centered 18 inches from the side wall, so that inmates with disabilities can use the side grab bar.
6. Clear floor space: Adequate space is provided to approach the toilet from a variety of wheelchair transfer positions (i.e. diagonal or side approaches). Generally, the toilet needs to be placed within a 60-inch-wide by 59-inch-deep clear area of the floor.

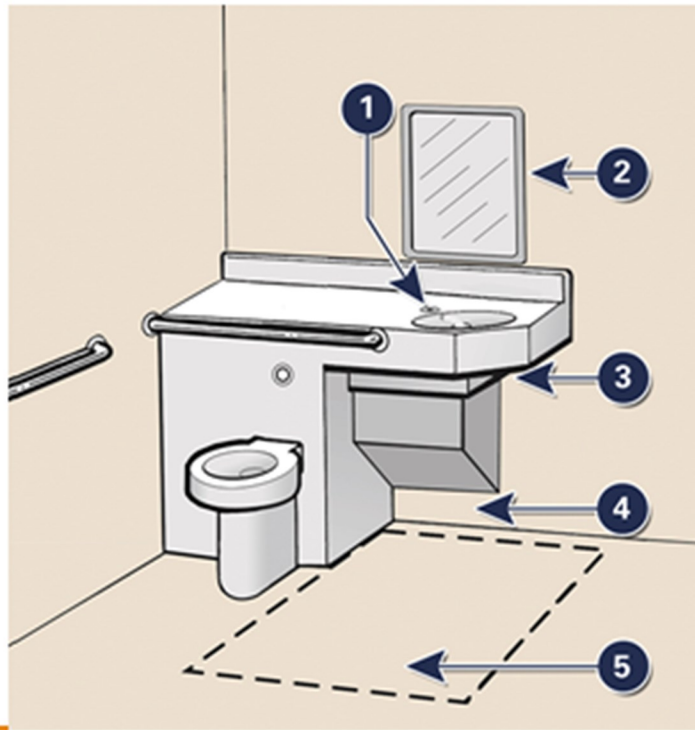
Note:

Grab bars can be designed so they do not increase suicide risk. As shown, there are several ways for grab bars to be designed with adequate gripping surfaces, while ensuring that nothing can be tied onto them.



Note:

In every instance, regardless of toilet and lavatory configuration, adequate space needs to be provided for inmates who use wheelchairs to transfer onto and off of the toilet.



Drawing Notes:

1. *Faucets: Faucet handles or controls need to be usable with one loosely closed fist, because some people with disabilities can use only one hand and cannot grasp or twist faucets. Lever-operated, push-type mechanisms, and U-shaped handles are acceptable designs.*
2. *Mirrors: If provided, mirrors need to be mounted with the bottom edge of the reflecting surface no higher than 40 inches above the floor.*
3. *Lavatory knee clearance: To allow persons who use wheelchairs to pull under the lavatory and to use the faucet hardware, the following features need to be provided -- a 29-inch-high clearance under the front edge of the lavatory, the top of the bowl mounted no higher than 34 inches above the floor, a 27-inch-high clearance for knee space extending at least 8 inches from the front of the lavatory, and a 9-inch-high toe space extending not more than 6 inches from the back wall.*
4. *Burn protection: To protect against leg burns, hot water and drain pipes need to be covered or otherwise configured to protect against contact. Some people with disabilities have little or no sensation in their legs and can be burned without knowing it.*
5. *Clear floor space is needed for a forward approach to the lavatory.*

OPERATIONS BULLETIN 18-002
RESTRAINING DEAF AND HARD OF HEARING OFFENDERS

The following procedure shall be adhered to when escorting Deaf or Hard of Hearing offenders and the manner in which they should be restrained:

Due to the necessity for Deaf and Hard of Hearing offenders utilizing their hands as a primary means of communication through gesturing, sign language or written communication, it is Department policy to remove security hand restraints for communication purposes. They shall also be permitted to utilize TTY machines and videophone equipment without hand restraints.

If identifiable security risks with removing hand restraints are indicated, those risks shall be documented, in writing and approved by a Shift Supervisor or above.

Should hand restraints be removed from offenders in confinement status or while on an outside writ for communication purposes, offender must minimally be restrained with leg restraints that can be attached to a permanently affixed security device or object. A waist restraint must also be utilized with security staff utilizing a lead chain.

RESOURCES

ADA Best Practices Tool Kit for State and Local Governments -

<https://www.ada.gov/pcatoolkit/toolkitmain.htm>

ADA National Network - <https://adata.org/>

Equip For Equality - <http://www.equipforequality.org/>

Illinois Deaf and Hard of Hearing Commission -

<https://www.illinois.gov/idhhc/Pages/default.aspx>

Illinois State Library - <http://www.ilbph.org/>

Products for the Blind & Deaf- <https://www.maxiaids.com/>

TRAINING

ADA Basic Building Blocks – Approved Training - <http://www.adabasics.org/>

ADA Title II – Approved Training - <http://www.adatitle2.org/>

IDOC REFERENCE

AD 04.01.111 ADA Accommodations

AD 04.01.114 Local Offender Grievance Procedures

DOC0401 ADA Individualized Communication Plan and Permit

Operations Bulletin 18-002

Updated: November 2018

ADA COORDINATOR TRAINING

TRAINING FOR THE FUTURE
AND PROBLEM SOLVING FOR THE PRESENT

UPDATED: NOVEMBER 2018



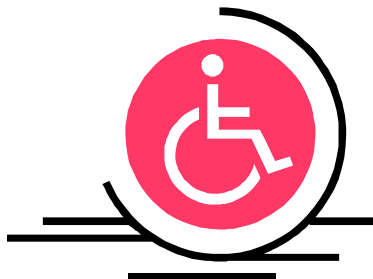
Housekeeping

- Course is 9-3
- Limit cell phone usage.
- Return from breaks on time.
- Ask questions.
- Additional Training
 - <http://www.adabasics.org/>
 - <http://www.adatitle2.org/>

PERFORMANCE OBJECTIVES

- ☐ Understanding the Americans with Disabilities Act and how it relates to the Illinois Department of Corrections
- ☐ Understand Administrative Directive 04.01.111 ADA Accommodations and 04.01.114 Local Offender Grievance Procedure
- ☐ Develop an operating knowledge of the definitions and terms of the Americans with Disabilities Act and how to apply them to the daily operation of the facility
- ☐ Cultivate an understanding of the different roles and responsibilities designated within a facility when dealing with an ADA Accommodation request.
- ☐ How to manage the grievance process when dealing with ADA issues.
- ☐ Learn how to develop a process within the facility to handle any ADA Accommodation requests and being able to organize a reasonable action plan
- ☐ Learn about the different ADA issues that can present themselves at the facility.

- ☐ Be able to gather information from multiple areas of the facility and decided upon a course of action in relation to the ADA request and the operational guidelines of the facility and the department.
- ☐ Be an effective, informed team member to support the CAO in dealing with ADA grievances, placement, and reasonable accommodations.
- ☐ Develop a knowledge of the resources available to the facility from both inside the department and outside in the local or statewide community.
- ☐ Communicate and collaborate with other ADA Coordinators in the department.
- ☐ Ensure proper documentation is completed and organized for the facility when dealing with ADA Accommodations.



Place yourself in their position!

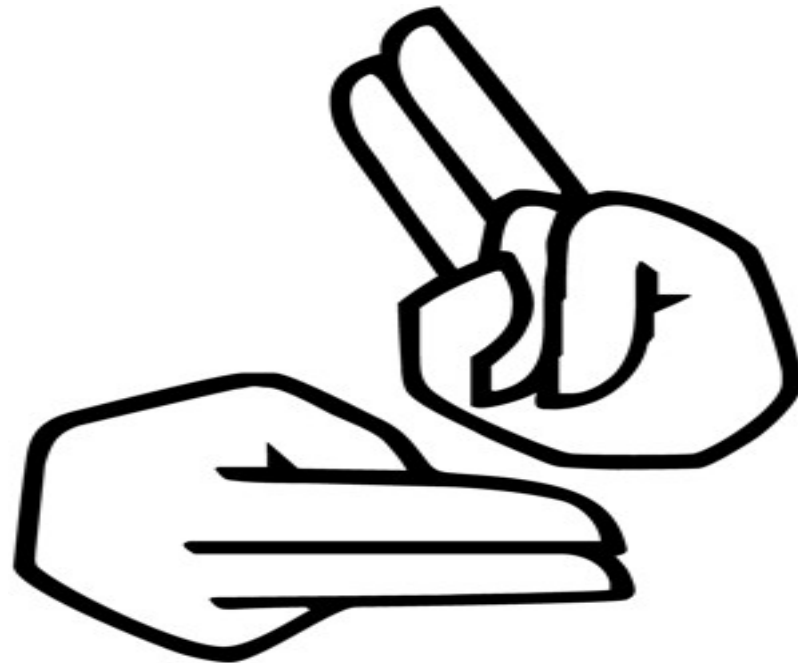
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=video&cd=3&cad=rja&uact=8&ved=0ahUKEwigwcHp99LPAhXI7oMKHbY4DjMQtwIIJTAC&url=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DmZr-T0Ci2EY&usg=AFQjCNFOW6VaaClyvR_CheOb7t6V3UaoeA

<https://www.youtube.com/watch?v=NB2UXoCQ9HM>

AMERICANS WITH DISABILITIES ACT



WHAT
IS ADA?





INTRODUCTION

The Americans with Disabilities Act of 1990 (ADA) is a law that was enacted by the U.S. Congress in 1990. It was signed into law on July 26, 1990, by President George H. W. Bush, and later amended with changes effective January 1, 2009.

INTRODUCTION

The ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability.

- Disability is defined by the ADA as "...a physical or mental impairment that substantially limits a major life activity."
- The determination of whether any particular condition is considered a disability is made on a case by case basis.
- Certain specific conditions are excluded as disabilities, such as current substance abuse and visual impairment that is correctable by prescription lenses.

TITLE II

“Access to civic life by people with disabilities is a fundamental goal of the Americans with Disabilities Act of 1990”

Title II requires State and Local governments to make their programs and services accessible to persons with disabilities.

These include access to:

- Public Schools
- Courts
- Voting
- Public Health Programs
- Libraries
- Parks
- Etc.

Does this apply to the Illinois Department of Corrections?

YES



Yeskey v. Pennsylvania Dep't of Corrections 524 U.S. 206 (1998)

The U.S. Supreme Court resolved any dispute about Title II's applicability to state prisons

- Held: Title II of the ADA applies “to any department, agency . . . Or other instrumentality of a State,” including state prison

Note: Inmates' opportunities for recovery are limited by the Prison Litigation Reform Act (PLRA)

- PLRA requires prisoners to exhaust administrative remedies before filing in federal court

See 42 U.S.C. § 1997e

TITLE II OF The Americans with Disabilities Act

SUMMARY:

- Protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments.
- Requires making programs accessible to individuals with disabilities and for providing equally effective communications.
- It sets forth standards for what constitutes discrimination on the basis of mental or physical disability, provides a definition of disability and qualified individual with a disability, and establishes a complaint mechanism for resolving allegations of discrimination.

DEFINITIONS



DEFINITIONS

ADA disability accommodation – means a modification or adjustment to the process or environment that will enable offenders with a disability, who are otherwise qualified, to access a program, activity, or service provided by the Department.

Americans with Disabilities Act (ADA) – means 42 USC 12101, et seq., Title II of the Americans with Disabilities Act Amendments of 2008.

Deaf – for the purpose of this directive means a condition where auditory function is not sufficient to process speech and language.

Hard of hearing – for the purpose of this directive means a condition where auditory function may or may not be sufficient to hear sound and where there is a difficulty distinguishing specific speech patterns in conversation.

DEFINITIONS CONT.

Interactive dialogue – for the purpose of this directive means a face-to-face communication in response to an offender’s request for ADA disability accommodation used to identify the precise limitations resulting from the disability and potential reasonable accommodations that could be provided to enable the offender to effectively access programs, activities, and services provided by the Department for which he or she would otherwise be qualified.

Teletypewriter equipment (TTY) - An electromechanical typewriter or device that either transmits or receives messages whereby an operator acts as facilitator between individuals by converting spoken conversation to text or text to audible conversation.

ACT means the Americans with Disabilities Act (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611).

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.



DEFINITIONS CONT.

Auxiliary aids and services includes—

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services;** notetakers; real-time computer-aided transcription services; written materials; **exchange of written notes; telephone handset amplifiers;** assistive listening devices; assistive listening systems; **telephones compatible with hearing aids; closed caption decoders; open and closed captioning,** including real-time captioning; voice, text, and video-based telecommunications products and systems, **including text telephones (TTYs),** videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; **accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;**

DEFINITIONS CONT.

Auxiliary aids and services (CONT)

- (2) Qualified readers; **taped texts; audio recordings; Brailled materials and displays;** screen reader software; magnification software; **optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;**
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

DEFINITIONS CONT.

Complete complaint means a written statement that contains the complainant's name and address and describes the public entity's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of this part. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in § 35.139.

DEFINITIONS CONT.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

The phrase physical or mental impairment means—

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;
2. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

DEFINITIONS CONT.

Disability (CONT)

The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

DEFINITIONS CONT.

Disability (CONT)

- The phrase physical or mental impairment does not include homosexuality or bisexuality.
- The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities

DEFINITIONS CONT.

Disability (CONT)

The phrase is regarded as having an impairment means—

1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

DEFINITIONS CONT.

Disability (CONT)

The term disability does not include—

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

DEFINITIONS CONT.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Individual with a disability means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

DEFINITIONS CONT.

Public entity means—

- (1) Any State or local government;
- (2) Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- (3) The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

Qualified individual with a disability means an individual 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.

DEFINITIONS CONT.

Qualified interpreter means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral translators, and cued-language translators.

Qualified reader means a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

Video remote interpreting (VRI) service means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in § 35.160(d).

DEFINITIONS CONT.

Wheelchair means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207 (c)(2).



Complaints / Accommodations



<https://www.youtube.com/watch?v=3soU39k4uoE>

Accommodations

All facilities within the Illinois Department of Corrections must comply with the Americans with Disabilities Act

Some facilities however, have been designated to house offenders with specific disabilities.



Examples of Services

- Jobs
- Education
- Phone calls
- Commissary
- Drug treatment
- Religious services
- Segregation
- Visitation programs
- All security levels
- Housing and cell assignment
- Medical and mental health services
- Sex offender treatment programs
- Medical and mental health screening
- Access to toilets, showers, food, and recreation

Jaros v. Illinois Dept. of Corr., 684 F.3d 667 (7th Cir. 2012)

- ❑ Illinois prison lacked grab bars and thus prevented plaintiff from using his shower and transporting himself to meals
- ❑ IDOC refused to add accessibility features b/c facility not designated as ADA-accessible, but also refused to transfer him to an ADA-accessible facility because he would not be incarcerated long enough to meet the Department's criteria for transfer

Clemons v. Dart

168 F.Supp.3d 1060 (N.D. Ill. 2016)

- ❑ Inmate who used wheelchair not assigned to an accessible room
- ❑ Nurses on call to help him access the sink, shower, and toilet
- ❑ **Sheriff:** No ADA violation b/c nursing staff allowed plaintiff to access all the same facilities
- ❑ **Court:** On-demand nursing support was not equivalent to providing an accessible cell b/c it reduced plaintiff's ability to engage in independent living to the fullest extent possible
- ❑ **Note:** Clarifies that Title II "requires affirmative, proactive accommodations necessary to ensure meaningful access to public services and programs, not accommodation upon request."

Wright v. New York State Department of Corrections

831 F.3d 64 (2nd Cir. 2016)

- ❑ Inmate with cerebral palsy and scoliosis who could operate a motorized wheelchair, but not a manual wheelchair, successfully challenged ban on motorized chairs in prison
- ❑ **Court:** Policy prevented plaintiff from accessing prison services. Rejected option of “inmate mobility aids” as “in tension” with ADA’s emphasis on independent living. Also said inmate mobility assistant program was ineffective in practice b/c it required advanced scheduling

Henderson v. Thomas

289 F.R.D. 506 (M.D. Ala. 2012)

- ❑ Group of prisoners with HIV successfully challenged Alabama Department of Corrections' HIV policy that:
 - ❑ Categorically restricted inmates with HIV to certain housing
 - ❑ Limited their ability to participate in prison programs
 - ❑ Required them to wear a white armband
- ❑ **Court:** ADA violation - “segregation policy” was not supported by any scientific or medical evidence, and violated the ADA

Pierce v. D.C.

128 F. Supp. 3d 250 (D.D.C. 2015)

- ❑ Deaf individual was incarcerated for 51 days
- ❑ Prison staff never assessed Plaintiff's communication needs
- ❑ Assumed lip-reading and written notes were sufficient
- ❑ Plaintiff asserts he asked for an interpreter for medical intake, health services and various classes
- ❑ **Court:** Granted summary judgment for Plaintiff on effective communication and intentional discrimination
 - ❑ Denied prison's motion for summary judgment
- ❑ **Court:** Prison violated ADA/504 as a matter of law by failing to evaluate Plaintiff's need for accommodation when taken into custody

Holmes et al. v. Baldwin et al.

11 C 2961

- ❑ Case filed to address the Illinois Department of Corrections' (IDOC) systemic failure to provide critical accommodations to deaf and hard of hearing prisoners.
 - ❑ Denials of accommodations include the IDOC's refusal to provide American Sign Language interpreters and other alternate forms of communication.
 - ❑ Without these accommodations, deaf and hard of hearing prisoners are endangered and deprived of meaningful access to religious services, healthcare, educational and vocational programs, telephones, televisions, library services, disciplinary proceedings, grievances, and pre-release programs
- ❑ **Court:** Settlement to include hearing tests, communication specialists, hearing aids, sign language interpreters, Video Phones, TTYs and Amplified Phones, communication alerts, and VRI (video remote interpreting)
- ❑ Settlement included required annual training of staff

Mental Health in Prison: Solitary Confinement

- ❑ Advocates contend that correctional facilities far-too-frequently refer people with mental illnesses to solitary confinement
 - ❑ Class action litigation has been successful at reducing amount of hours inmates with mental illness spend in isolation
 - ❑ ***Rasho v. Baldwin*, 07-CV-1298 (C.D. Ill.)**
- ❑ DOJ Statement of Interest in ***G.F. v. Contra Costa County***
 - ❑ Opined that under the ADA, prisons cannot confine an inmate to solitary confinement because of that person's mental illness

Rasho v. Baldwin

Allegations raised in class complaint (filed in 2007)

- ☐ Lack of adequate treatment:
 - ☐ Space for individual or group therapy
 - ☐ Lack of private areas for treatment
 - ☐ Trained and licensed personnel
 - ☐ Hospital level of care
 - ☐ Unmonitored use of psychotropic medication
- ☐ Punitive approach to mental illness
 - ☐ Physical restraints
 - ☐ Crisis cells
 - ☐ Use segregation
 - ☐ Physical and verbal abuse by guards

Rasho v. Baldwin

Case settled in 2015

- ☐ Hospital for prisoners who need in-patient services
- ☐ Significantly increased staff, including more than 300 new clinical staff and 400 new security staff
- ☐ Construction of four new residential treatment units
- ☐ Drastic improvement of treatment systems
- ☐ Significant reduction of solitary confinement

Wright v. Texas Department of Criminal Justice 2013 WL 6578994 (N.D. Texas Dec. 16, 2013)

- ☐ Mother sued the Texas Department of Criminal Justice after her son took his own life while in prison
- ☐ Son had severe bipolar and schizophrenia
- ☐ Classified by prison doctors as “high risk suicide status”
- ☐ **Allegations:** Prison failed to provide accommodations that would have reduced likelihood of committing suicide – such as:
 - ☐ A roommate
 - ☐ A cell without “tie off” points
- ☐ **Court:** Failure to make these accommodations could constitute discrimination under the ADA

Offender Complaints

The three most common types of allegations involve:

1. denial of access or unequal access to the facility's programs and activities;
2. lack of effective communication for offenders who are deaf or hard of hearing and those who are blind or have low vision;
3. denial of access to disability-related medical services and devices.

Examples Dealing With Complaints

- a treatment program in an accessible location for an offender with a mobility disability
- a prosthetic leg for an offender that allows the offender to live in the general population instead of the infirmary and to participate more fully in the activities available for offenders
- aides to assist an offender with no arms in eating and other activities of daily living
- assist an offender who uses a wheelchair in getting around the prison facility
- sign language interpreters enabling a deaf offender to participate in educational programs and/or a treatment program
- TTYs for offenders
- talking books and magnifiers for offenders with vision disabilities
- permitting an offender with a disability to be considered for a job
- permitting a visitor who uses a portable oxygen tank to visit

Requests For ADA Accommodations

**The Department will determine
whether an accommodation is
appropriate on a case-by-case
basis.**

Requests For ADA Accommodations

- DEAF AND HARD OF HEARING COMMUNICATION PLAN
- VIBRATING WRIST WATCH / TALKING WRIST WATCH
- HEADPHONE FOR HEARING IMPAIRED OFFENDER
- AMERICAN SIGN LANGUAGE VIDEO REMOTE INTERPRETATION
- FOREIGN LANGUAGE TRANSLATION

AD 04.01.111

Policy Statement

The Department shall not discriminate against offenders with known disabilities and shall provide reasonable accommodations to ensure access to programs, activities, and services in accordance with the Americans with Disabilities Act and the provisions established in this Directive.

General Provisions

1. All decisions regarding ADA accommodation shall be made on an individual case-by-case basis. Approval of an accommodation request shall not constitute a precedent for other requests.
 2. Requests that cause undue hardship on the Department, including those that would be unduly costly, extensive, substantial, or disruptive; requests that would result in a threat to the safety or security of the facility or health of any person; or requests that fundamentally alter the nature or operation of the facility shall be denied.
 3. Disabled offenders shall not be permanently housed in an infirmary unit unless medical treatment is otherwise required.
 4. Offenders requiring the use of a wheelchair shall be housed in cells or dormitories that are wheelchair accessible.
 5. Offenders requiring the use of a wheelchair shall be transported in wheelchair accessible vehicles.
- 

General Provisions

6. Due to the necessity for Deaf and Hard of Hearing offenders utilizing their hands as a primary means of communication through gesturing, sign language or written communication, it is Department policy to remove security hand restraints for communication purposes. They shall also be permitted to utilize TTY machines and videophone equipment without hand restraints. **If identifiable security risks with removing hand restraints are indicated, those risks shall be documented, in writing and approved by a Shift Supervisor or above** (IDOC Operations Bulletin 18-002).

7. Offender property shall be controlled in accordance with Administrative Directives 05.10.110, 05.10.115, and 05.10.120, as applicable; however, the Facility ADA Coordinator may approve requests for special permit items such as vibrating watches, talking books, and amplifying headphones.

8. In facilities or units that house offenders that are deaf or hard of hearing, closed captioning shall be activated for day room televisions and recreational DVD programming.

Requirements

1. Director – Must appoint an agency coordinator
2. TCO – Must identify facilities equipped to handle
 - a) All facilities have ADA ability
 - b) Some facilities have specific ADA missions
 - i. Wheelchair
 - ii. Deaf / Hard of Hearing
3. CAO – Must identify a facility ADA coordinator
 - a) Provide information to offenders
 - b) Establish procedures for TTY usage
 - c) Ensure emergency evacuation plans include provisions for evacuating offenders with disabilities

The Facility ADA Coordinator shall:

Upon receipt of DOC 0286 for ADA disability accommodation:

- (1) Review the request and meet with the offender for interactive dialogue.
- (2) Consult with the facility's operational and administrative staff and the Agency ADA Compliance Officer, as necessary, to ensure the proposed ADA disability accommodations are feasible or to identify effective alternatives.
- (3) If required, schedule an individualized assessment with a licensed specialist for recommendations of auxiliary aids or services that may assist in providing effective communication.
- (4) Approve or deny the request; and in writing:
 - (a) Notify the Agency ADA Compliance Officer of the determination.
 - (b) Notify the offender of the determination.

NOTE: If a reasonable accommodation is offered to the offender and is subsequently rejected, the Department shall not be required to offer an alternative accommodation.

- (5) Document the determination and, if applicable, the approved accommodations in the Case History and Management Program (CHAMP) System.

The Facility ADA Coordinator shall:

Upon identification or referral of a deaf or hard of hearing offender:

(1) If the offender requires accommodations beyond the assistance of a hearing aid, develop a written an ADA Individualized Communication Plan (DOC 0401). A Qualified Specialist will eventually be utilized to develop the plan with the offender and in coordination with the ADA Coordinator. However, until the Qualified Specialists are appointed, the ADA Coordinator needs to develop and ensure a communication plan is in place for the offender. The original communication plan shall be maintained in the offender's master file. Copies shall be provided to the Agency ADA Compliance Officer and to the offender. The communication plan may include, but shall not be limited to:

(a) Authorization for optional identification showing the offender as deaf or hard of hearing.

(b) Alternative notification methods for auditory announcements.

(c) Authorization for special permit items and auxiliary aids such as visual aids, written material, flashcards, word processing hardware, TTY, closed caption televisions, assistive listening system or devices used to amplify sound, or qualified sign language interpreters.

The Facility ADA Coordinator shall:

(d) Coordination of communication accommodations when the information being relayed is complex, exchanged for a lengthy period of time, or involves legal due process. This may include, but is not limited to, communications such as:

- i. Orientation;
- ii. Counseling;
- iii. Educational and vocational programming;
- iv. Medical and mental health services;
- v. Religious services;
- vi. Due process hearings, including disciplinary hearings;
- vii. Pre-release instructions.

The Facility ADA Coordinator shall:

(2) Provide notification to vendors, community partners, and other service providers with whom the offender interacts to inform them when they need to provide accommodation. Such notification shall include the need for a sign interpreter for medical writs, Prisoner Review Board hearings, custodial interviews with state agencies, and court writs.

c. Monitor approved ADA disability accommodations and individualized communication plans to ensure effective implementation and continuance after implementation.

d. Submit to the Agency ADA Compliance Officer an annual compliance report. The report shall:

(1) Be submitted by June 30th of each year.

(2) Contain facility specific ADA information as required by the Agency ADA Compliance Officer.

Training

1. All staff with regular contact with offenders shall receive annual ADA training. Training may be provided during annual cycle training.
2. Facility ADA Coordinators shall receive additional specialized training on accommodation needs of deaf and hard of hearing offenders.

NOTE: All training curricula shall be developed by the Office of Staff Development and Training and approved by the Agency ADA Compliance Officer.

AD 04.01.114

Offender Grievance Procedures



AD 04.01.114

Policy Statement

The Department shall establish and maintain a local grievance process for addressing offender grievances within the facilities.

ADA & Grievance Procedures:

Grievances regarding alleged discrimination based on disability or denied requests for accommodation to access programs, activities, or services based on disability, shall be promptly forwarded to the Facility American's with Disability Act (ADA) Coordinator who shall:

- i. Within five business days of receipt, begin the investigation of the allegations, including interactive dialogue with the offender, to identify physical and mental limitations and what accommodations may enable access. Interactive dialogue shall be documented in the Case History and Management Program System (CHAMPS);
- ii. Determine if the allegation is an ADA issue. Non-ADA grievances shall be promptly returned to the Grievance Officer.
- iii. Complete and submit the "Grievance Officer's Report" section of the Response to Offender's Grievance, DOC 0047, including his or her recommendations to the Chief Administrative Officer for final determination.
- iv. Issue, or arrange for issue, permits and approval for reasonable accommodation in accordance with the Chief Administrative Officer's final determination.
- v. Notify the Agency ADA Compliance Officer of ADA accommodations.

ADA & Grievance Procedures:

The Chief Administrative Officer shall make reasonable efforts within two months of the receipt of the grievance to:

- (1) Review the material submitted by the Grievance Officer, facility ADA Coordinator, or Facility Privacy Officer, respectively.
- (2) Render and document the decision in the “Chief Administrative Officer’s” section of the DOC 0047.
- (3) Forward a copy of the completed DOC 0047 to the offender and to the Records Office for inclusion in the offender’s master file.
- (4) If applicable, notify the facility ADA Coordinator of his or her final determination.

FACILITY APPLICATION



Security Challenges

<HTTPS://WWW.YOUTUBE.COM/WATCH?V=L9ANPMRHH2C>



- ☐ The ADA Coordinator is the spearhead for a multi-departmental team in the facility.
- ☐ Develop open communication channels with the different departments in your facility. I would not be out of the ordinary that when you are investigating a grievance or request form, that you will speak to operations, as much as programs staff members.
- ☐ Make contact with the Healthcare Unit Administrator in your facility, They will be a major source of up to date information on the offender's current health status and medical history. The HCUA will be able to keep you informed of any ADA reasonable accommodations in the offender's history.
- ☐ Investigate and make contact with the local assets in your area. Deaf Interpreters, disability assessors, wheelchair repair, and other assistive assets in your local community.

- ☐ Become familiar with the specific forms that are to be completed and submitted for review.
- ☐ Be a source of honest and mature advice to your CAO when dealing with making a reasonable accommodation.
- ☐ Know your facility. Know how many ADA mobility cells your facility has in operation. Know how many are filled at any given time.
- ☐ Understand your facilities grounds in relation to offenders that are mobility impaired. When an issue arises document with CAO and Chief Engineer.
- ☐ When having the “interactive dialogue” with the offender, understand the issue and the accommodation requested. If you, as the ADA Coordinator, are confused about the request from the offender, research the issue.

- ☐ Develop an Individualized Communication Plan for all offenders that might need any reasonable accommodations. Ensure that the communication plan is filed in the Master file. A Qualified Specialist will be eventually be utilized to develop the plan with the offender and in coordination with the ADA Coordinator.
- ☐ Keep a report listing the offenders and their reasonable accommodations that are in operation. Track the accommodations. Ensure that the accommodation that is requested has back-up from the Healthcare Unit. Keep an up to date file on any grievances that have been checked “ADA”.
- ☐ Contemplate new strategies to aid your facility in dealing with the different accommodations that are being requested.
- ☐ Know your local assets for interpretive needs, assistive technology, and the other assets that the other facilities in your district use frequently.

- ☐ Be a resource for the other staff in your facility for answers when dealing with offenders that have ADA Accommodations.
- ☐ Work with the Administration of your facility to determine and acquire American Sign Language assessment and interpretation when needed. Determine when an interview could be managed by the Video Remote Interpretation or if an in-person interpretation is required.
- ☐ If you have the ability, provide some informational training at departmental meetings to inform other staff members of your role and duties.
- ☐ Keep in mind that the standard for all ADA accommodations is based on the “reasonable accommodation” mindset. Because a certain accommodation is requested does not mean that, the accommodation requested, is the **ONLY** accommodation that is available.

- ☐ Develop a database for supportive information (interpreters, special commissary needs) to accomplish the tasks that will be asked of you as an ADA Coordinator.
- ☐ Put together a folder of the forms that are used when dealing with many of the ADA issues and situations.
- ☐ Ensure that you have access to the ADA Sharepoint system.
- ☐ Develop your facility's evacuation plan including any reasonable accommodations for offenders that need assistance whether they have mobility concerns, sight issues, or hearing notification difficulties.

FACILITY ADA ATTENDANT PROGRAM

The purpose of this program is to aid a facility operated by the Illinois Department of Corrections in developing and operating an effective and efficient ADA Attendant Program. This program is to be managed in the same manner as any other paying assignment in the facility. Although this assignment has a very specific purpose and specialized training attached to its implementation, the management and handling of the offenders involved are to be managed in the same manner as all the other assignments in the facility. The offenders must qualify via facility vote sheet and are required to complete training from the Healthcare Unit and Program's staff members.

ADA COORDINATOR ANNUAL REPORT:

- ☐ **ALL GRIEVANCES FOR THAT FY; THAT WERE MARKED ADA WITH RESOLUTIONS**
- ☐ **ADA COORDINATOR APPOINTMENT LETTER SIGNED BY CAO**
- ☐ **ADA ACCOMMODATIONS LIST OF OFFENDERS**
- ☐ **LISTING OF ADA MOBILITY ISSUE CELLS AND LIVING UNITS**
- ☐ **ALL COMPLETED COMMUNICATION PLANS**
- ☐ **DUE BY June 30**

FREQUENTLY ASKED QUESTIONS:

Q: Does the ADA apply to prisons?

Yes. Title II of the ADA, 42 U.S.C. §§ 12131-12134, applies to all state prisons

Q: Who is protected by the ADA?

"Qualified individuals with disabilities" are protected by the ADA. An individual with a disability is a person who meets one of the following three standards:

(1) The person has a mental or physical impairment that substantially limits one or more major life activities (such as walking, seeing, learning, hearing, interacting with others).

Examples: cerebral palsy; profound mental retardation; severe and persistent mental illness; HIV infection or AIDS.

(2) The person has a record of a mental or physical impairment that substantially limits a major life activity.

Example: history of heart disease

(3) The person is regarded as having a mental or physical impairment that substantially limits a major life activity.

Example: prison officials refuse to give a job to a person who had an isolated seizure - based on the mistaken belief that the job will trigger seizures.



An individual with a disability also must be "qualified" to be protected by the ADA. An inmate with a disability will be considered "qualified" if he can meet the essential eligibility requirements of the program, service, or activity with or without reasonable modifications to rules, policies or practices, with or without the removal of architectural or communication barriers, and with or without the provision of auxiliary aids and services (such as materials in Braille or sign language interpreters). For some prison services and activities, virtually all inmates are qualified. For other prison services and activities, eligibility may be limited.

Examples: All inmates are "qualified" for food services so that an inmate with uncontrolled diabetes who needs a special diet would be "qualified".

In contrast, if a prison requires a high school diploma or GED for admittance to college level courses, an inmate who is deaf and seeks an interpreter for such courses will only be eligible if he has a diploma or GED.

Q: What are some examples of the impact of the ADA on prisons?

- Prisons cannot bar qualified individuals from specific programs on the basis of their disability.
- Prisons must meet certain physical accessibility requirements to accommodate persons with mobility or other physical impairments.
- Prisons, under some circumstances, must provide sign language interpreters for persons who are deaf to enable them to participate in programs.
- Prisons must provide reasonable modifications to rules, policies, or practices to enable persons with disabilities to participate in the programs, services, and activities of the facility.

Q: If the prison fails to provide necessary or appropriate medical or mental health services, is that a violation of the ADA?

No, unless there are extraordinary circumstances. However, an inmate who does not receive necessary or appropriate medical or mental health treatment may have other claims depending on the circumstances.

Cell Requirements

While all aspects of law enforcement and correctional services are covered by these laws - including facilities, employment, transportation, and other activities, programs, and services - this guide focuses on the prevention of discrimination against inmates with mobility disabilities through the design of accessible cells.

Security

Accessible cells do not compromise the security of prison personnel. In fact, having accessible cells increases security because they allow inmates with mobility disabilities to function independently, minimizing the need for assistance from guards.

Basic Features

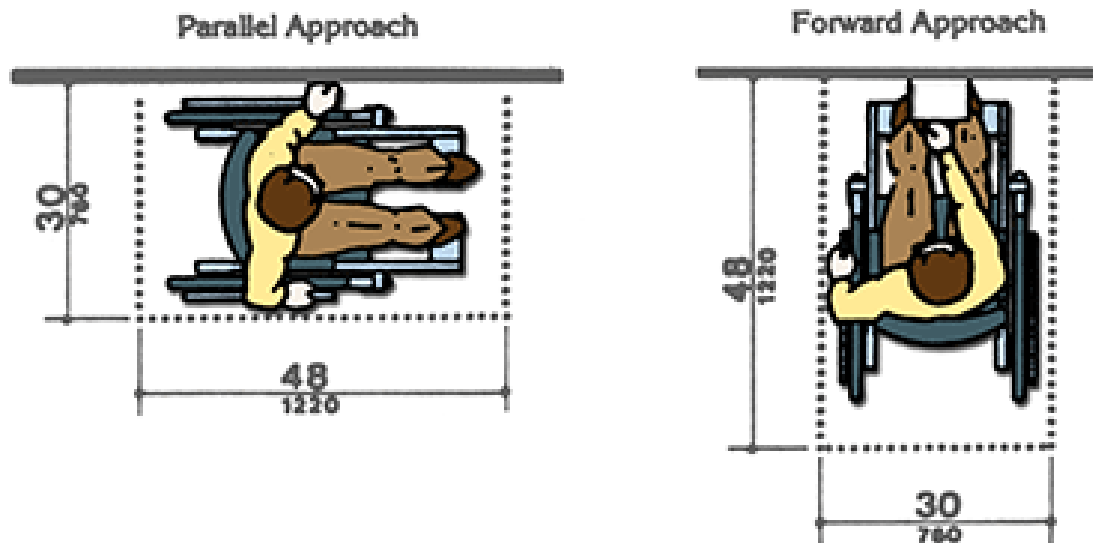
Inmates with disabilities - including those who use wheelchairs - need to be able to enter their cells and move around inside them, using the cells' features without assistance. What makes this possible? Careful planning and design will incorporate elements such as a wider entrance door, adequate clear floor space, appropriate placement and models of fixtures and furniture, and grab bars.

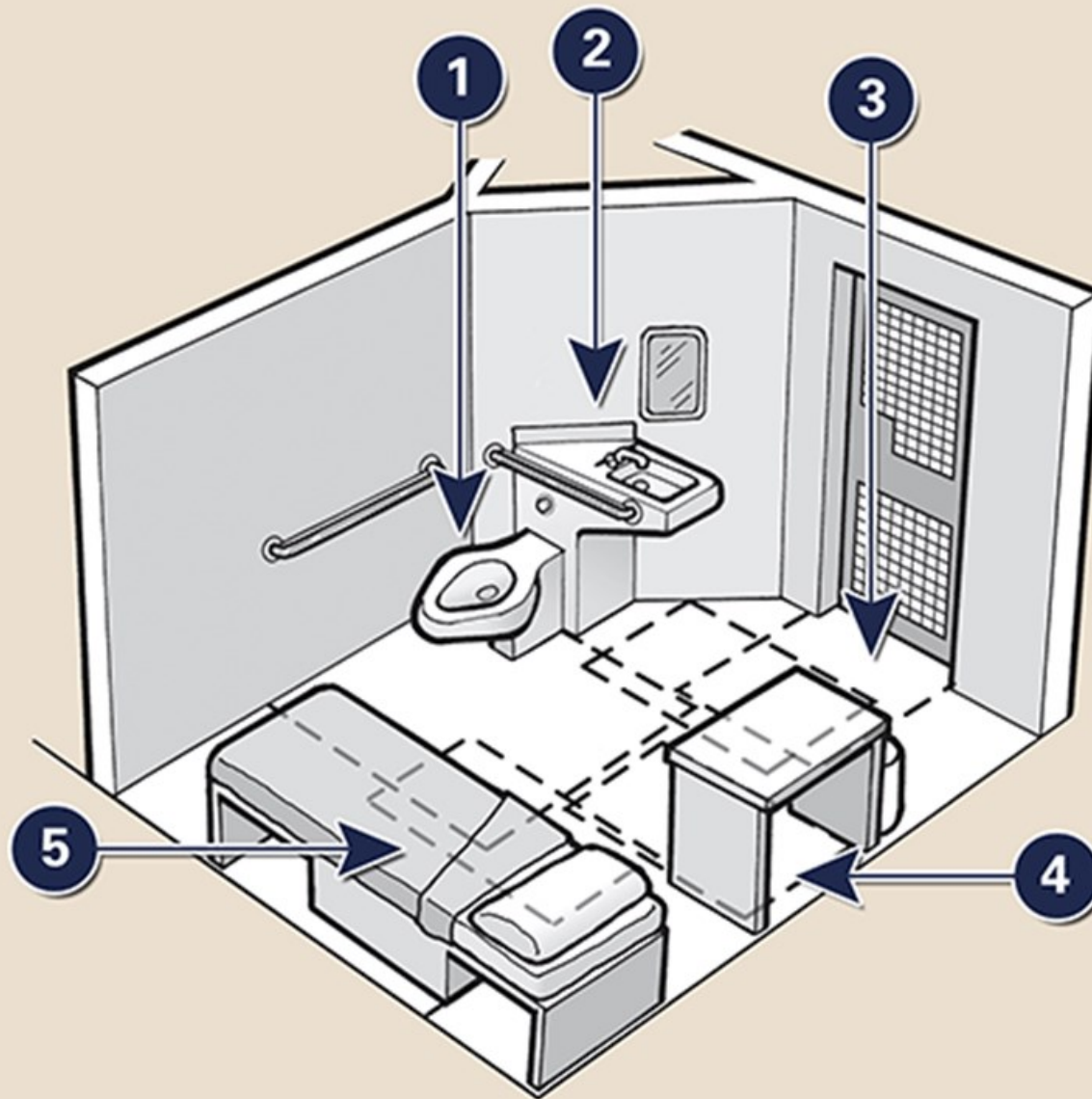
Location or Dispersion of Cells

Dispersing accessible cells throughout a facility ensures that inmates with disabilities are able to be housed with inmates of the same classification levels. Generally, inmates with disabilities who are not ill do not need to be housed in a medical ward.

Furniture and Cell Features

Accessible cells need to contain the same features as other cells for inmates housed at the same classification level. For instance, where other cells contain writing desks, accessible writing desks are needed in accessible cells.

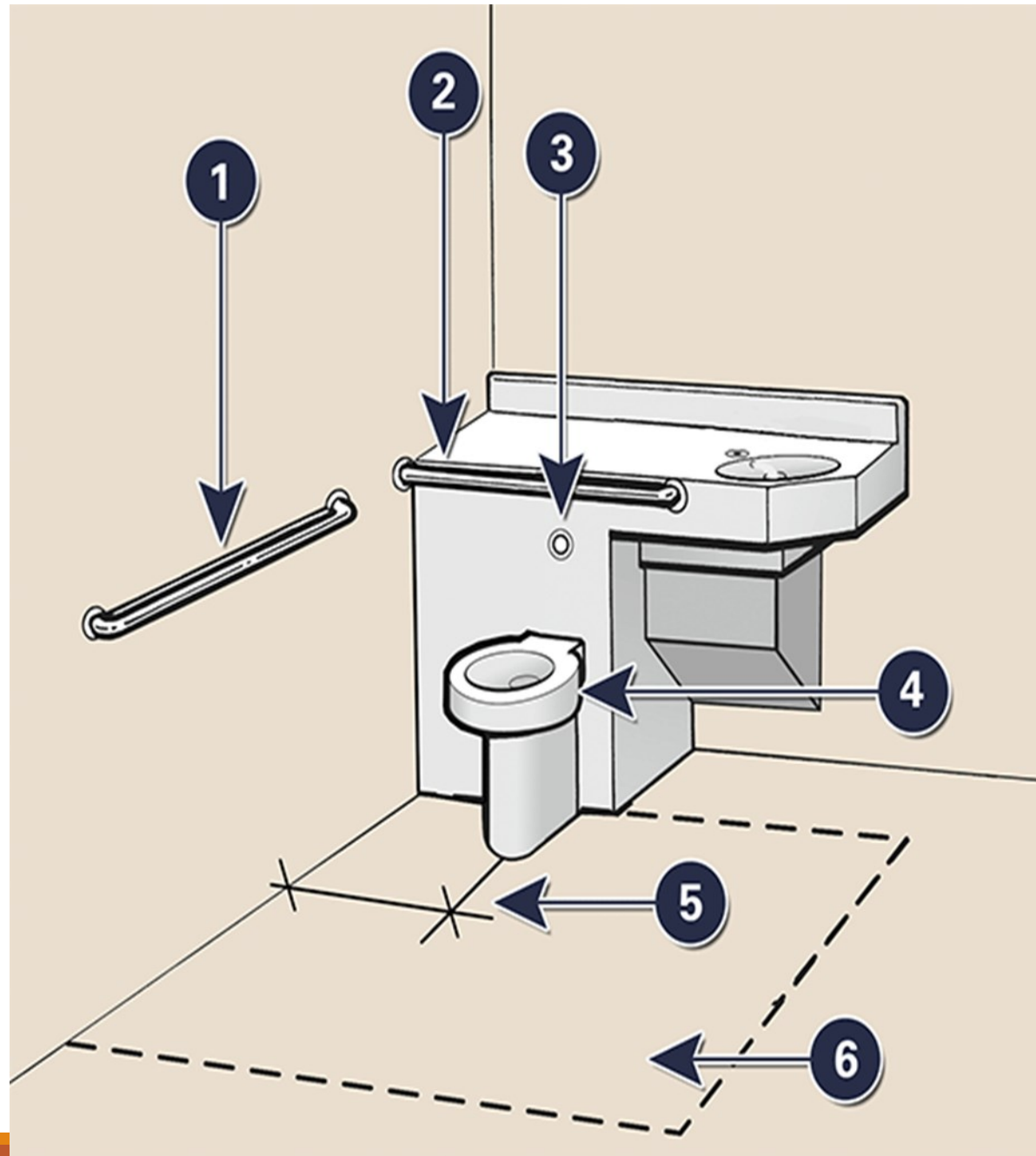




Drawing Notes:

1. Accessible toilet with rear and side grab bars, clear floor space for wheelchair transfer, and an accessible flush valve.
2. Accessible lavatory with knee and toe space below, faucet controls usable with a loosely closed fist, clear floor space for front approach, and lowered mirror.
3. Doors with 32 inches of clear opening width (when a sliding door is fully opened or a hinged door is open 90 degrees). Clear floor space is required in front of the door.
4. Desk with knee and toe space and clear floor space for front approach.
5. Bed with clear floor space for a side approach next to bed.

Appropriate clear floor space (shown by dashed lines) is needed adjacent to each cell feature (see page 1 diagrams on clear floor space). As shown in this drawing, the clear floor spaces for each element may overlap. Inmates with a mobility disability should be able to use, and move without obstruction among, the easily accessible features of their cells. There needs to be adequate turning space within the cell -- either a 60-inch-diameter circle or a T-shaped turn area. [\(See diagrams on turning space.\)](#)

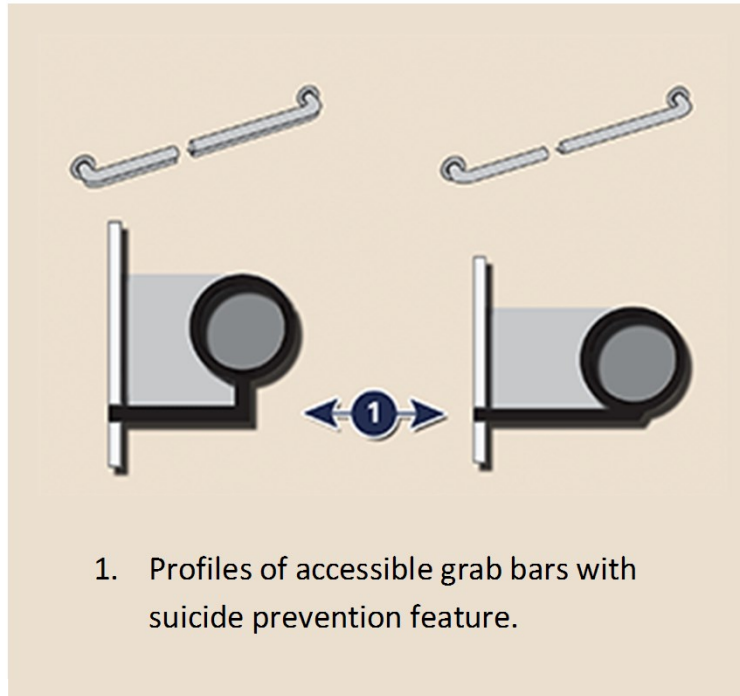


Drawing Notes:

1. Side grab bar: There is a grab bar on the adjacent side wall that is at least 40 inches long and from 33 to 36 inches above the floor.
2. Rear grab bar: There is a grab bar behind the toilet that is at least 36 inches long and from 33 to 36 inches above the floor.
3. Flush valve is located in reach range and is operable without tight grasping, twisting, or pinching.
4. Toilet seat height: The toilet seat needs to be from 17 to 19 inches above the floor to permit transfers to and from wheelchairs.
5. Toilet centerline: The toilet bowl needs to be centered 18 inches from the side wall, so that inmates with disabilities can use the side grab bar.
6. Clear floor space: Adequate space is provided to approach the toilet from a variety of wheelchair transfer positions (i.e. diagonal or side approaches). Generally, the toilet needs to be placed within a 60-inch-wide by 59-inch-deep clear area of the floor.

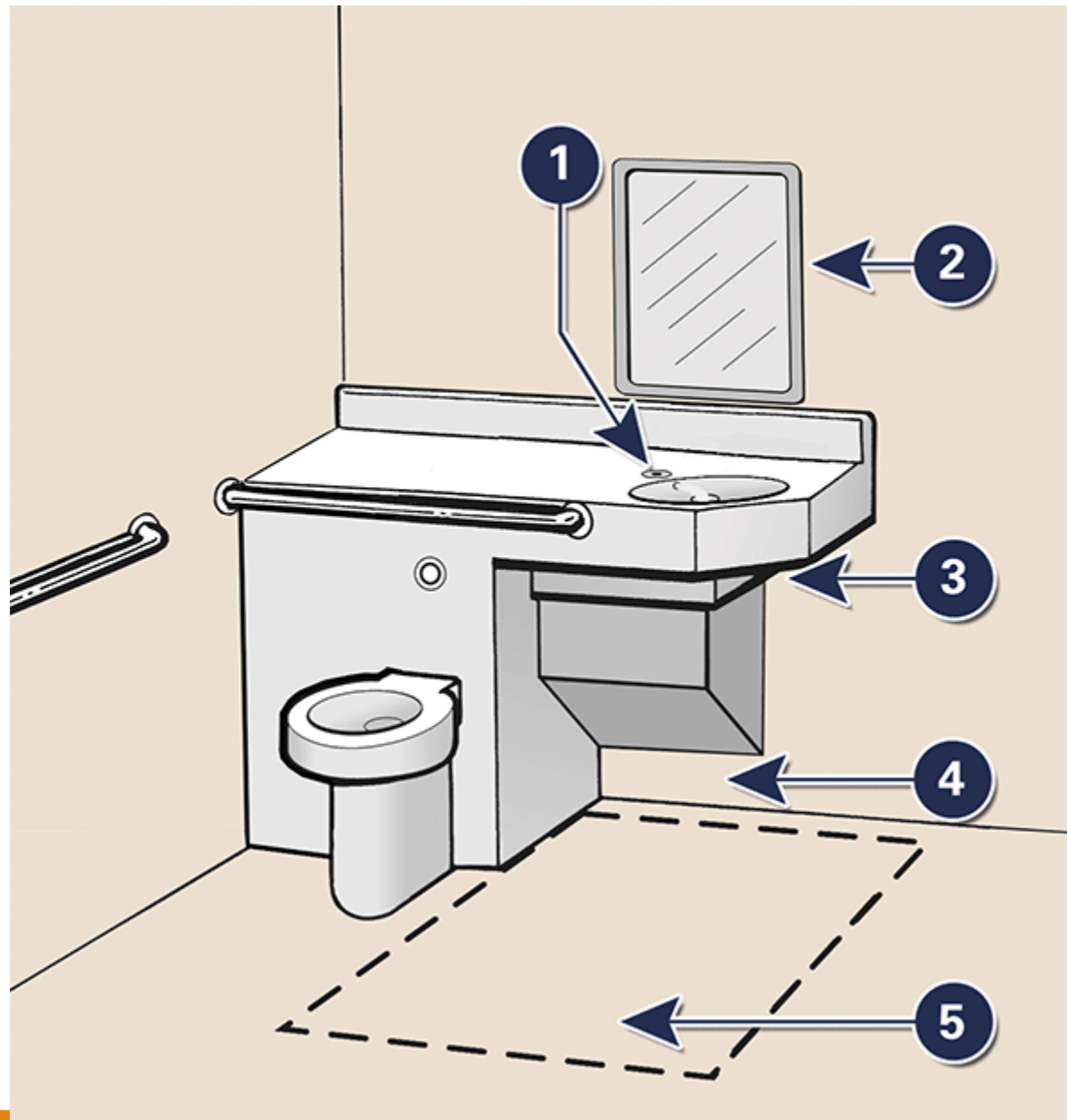
Note:

Grab bars can be designed so they do not increase suicide risk. As shown, there are several ways for grab bars to be designed with adequate gripping surfaces, while ensuring that nothing can be tied onto them.



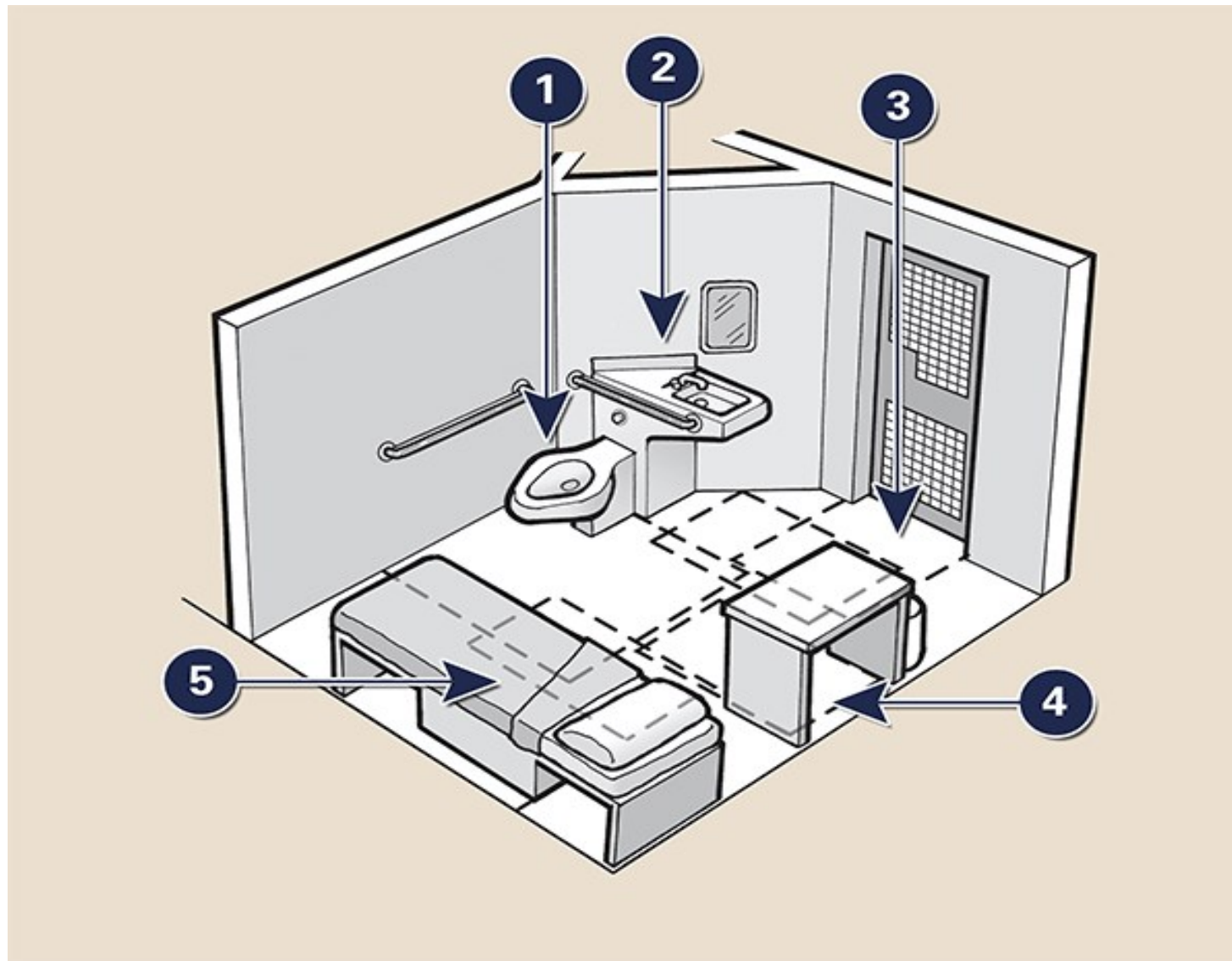
Note:

In every instance, regardless of toilet and lavatory configuration, adequate space needs to be provided for inmates who use wheelchairs to transfer onto and off of the toilet.



Drawing Notes:

1. *Faucets: Faucet handles or controls need to be usable with one loosely closed fist, because some people with disabilities can use only one hand and cannot grasp or twist faucets. Lever-operated, push-type mechanisms, and U-shaped handles are acceptable designs.*
2. *Mirrors: If provided, mirrors need to be mounted with the bottom edge of the reflecting surface no higher than 40 inches above the floor.*
3. *Lavatory knee clearance: To allow persons who use wheelchairs to pull under the lavatory and to use the faucet hardware, the following features need to be provided -- a 29-inch-high clearance under the front edge of the lavatory, the top of the bowl mounted no higher than 34 inches above the floor, a 27-inch-high clearance for knee space extending at least 8 inches from the front of the lavatory, and a 9-inch-high toe space extending not more than 6 inches from the back wall.*
4. *Burn protection: To protect against leg burns, hot water and drain pipes need to be covered or otherwise configured to protect against contact. Some people with disabilities have little or no sensation in their legs and can be burned without knowing it.*
5. *Clear floor space is needed for a forward approach to the lavatory.*



Applying Your Knowledge / Scenarios



DISCLAIMER

All situations are different.

These scenarios were developed to allow you, the training participant, the ability to apply your knowledge and critically think through everyday scenarios in the correctional environment.

Scenario One

Offender Brown is an inmate who suffers from a respiratory illness that prevents him/her from climbing stairs. Offender Brown is assigned to the second level of a cell house.

Is this an ADA issue?

If yes, what is the solution to Offender Brown's issue?



Scenario One

Is this an ADA issue?

Yes

If yes, what is the solution to Offender Brown's issue?

Simply move offender Brown down to a lower deck. In addition, a low gallery order should be ordered and enforced for Offender Brown.

Scenario Two

Offender Smith suffers from a sight issue that can be corrected with eyeglasses. Additionally, he/she struggles with reading in the low light of his/her cell.

Is this an ADA issue?

If yes, what is the solution to Offender Smith's issue?



Scenario Two

Is this an ADA issue?

Yes

If yes, what is the solution to Offender Smith's issue?

Make sure that Offender Smith has the proper eye glasses. In regards to the lighting in the cell, provide an additional light source for the cell. A lamp, pen light, etc.

Scenario Three

Offender Jones is deaf and is having trouble communicating with his doctor regarding his medical issues.

Is this an ADA issue?

If yes, what is the solution to Offender Jones's issue?



Scenario Three

Is this an ADA issue? Yes

If yes, what is the solution to Offender Jone's issue?

Offender Jones should be afforded some type of interpreter through the use of video or in person.

Scenario Four

Offender Stephens is overweight, and ask that he not be required to work due to his weight.

Is this an ADA issue?

If yes, what is the solution to Offender Stephen's issue?



Scenario Four

Is this an ADA issue?

Just being overweight is not enough. Although other health concerns may be present, that may require additional attention. Every scenario is different and must be handled case by case.

Scenario Five

Offender James is hearing impaired, and has been provided 4 pairs of headphones in the last 3 months by the Department. He is currently requesting a 5th pair.

Is this an ADA issue?

If yes, what is the solution to Offender Stephen's issue?



Scenario Five

Is this an ADA issue?

Maybe

If yes, what is the solution to Offender Jame's issue?

Further information is required, why has he/she been issued so many headphones.

Scenario Five

Is it a manufacturing problem?

Were they damaged by staff or other inmates?

Is the offender destroying the headphones?

“What would a reasonable person believe?”



Scenario Six

Offender Williams is assigned a wheelchair by the HCU for MS. Security staff observe Williams walking without the assistance of his/her wheelchair; they then remove the wheelchair.

Is this an ADA issue?

If yes, what is the solution to Offender Williams' issue?



Scenario Six

Is this an ADA issue?

Yes

If yes, what is the solution to Offender Williams' issue? The issue needs to be discussed with HCU and Operations to see if the need for the wheelchair is necessary. The decision to remove the wheelchair should be in collaboration with HCU and the facility ADA coordinator. The need for the wheelchair should be explained to Operations. Education often avoids conflict.



Scenario Seven

Offender Jenkins needs a wheelchair and has been assigned said wheelchair for about 2 years.

Offender Jenkins cannot get around well, if at all, without his wheelchair. One day, without explanation, staff remove the wheelchair.

Is this an ADA issue?



Scenario Seven

Is this an ADA Issue?

YES

If yes, what is the solution to Offender Jenkins' issue?

Check with staff to see why the wheelchair was removed. If there are no disciplinary reasons to the removal, work with the HCU and operations to have the wheelchair re-assigned.

Conclusion

- If you have a question, always ask!
- Every situation is different!
- Utilize Share Point, as a tool to seek answers
- Communicate with other ADA Coordinators / great ideas / creative co-workers
- Always have available / be familiar with:
 - AD 04.01.111 – ADA Accommodations
 - AD 04.01.114 – Offender Grievance Procedures

<https://www.youtube.com/watch?v=riuSEMpb0LU>

Americans with Disabilities Act (ADA)



PSCT/PSOT/Cycle Training

Updated: November 2018

*The Americans with Disabilities Act of 1990 (ADA) is a law that was enacted by the U.S. Congress in 1990. It was signed into law on July 26, 1990, by President George H. W. Bush, and later amended with changes effective January 1, 2009.

*Introduction

- * The ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability.
- Disability is defined by the ADA as "...a physical or mental impairment that substantially limits a major life activity."
- The determination of whether any particular condition is considered a disability is made on a case by case basis.
- Certain specific conditions are excluded as disabilities, such as current substance abuse and visual impairment that is correctable by prescription lenses.



* Introduction Cont.

*The Department shall not discriminate against offenders with known disabilities and shall provide reasonable accommodations to ensure access to programs, activities, and services in accordance with the Americans with Disabilities Act and the provisions established in this Directive.



Illinois Department
of Corrections

*AD 04.01.111

- * Unless it is appropriate to make an exception, public entities shall not place offenders with disabilities:
 - In inappropriate security classifications because no accessible cells or beds are available;
 - In medical areas unless they are actually receiving medical care or treatment;
 - In facilities that do not offer the same programs as facilities where they otherwise would be housed; and
 - In distant facilities where they would otherwise not be housed that would deprive them of visitation with family members.



- * The three most common types of allegations involve:
 1. denial of access or unequal access to the facility's programs and activities;
 2. lack of effective communication for offenders who are deaf or hard of hearing and those who are blind or have low vision;
 3. denial of access to disability-related medical services and devices.



* Offender Complaints

- a treatment program in an accessible location for an offender with a mobility disability
- a prosthetic leg for an offender that allows the offender to live in the general population instead of the infirmary and to participate more fully in the activities available for offenders
- aides to assist an offender with no arms in eating and other activities of daily living
- assist an offender who uses a wheelchair in getting around the prison facility
- sign language interpreters enabling a deaf offender to participate in educational programs and/or a treatment program
- TTYs for offenders
- talking books and magnifiers for offenders with vision disabilities
- permitting an offender with a disability to be considered for a job
- permitting a visitor who uses a portable oxygen tank to visit

*Examples Dealing With Complaints

* In relating ADA to DR504 a few areas should be considered while imposing rule violations within IDOC. It is recognized that discipline is necessary to properly operate a correctional facility and that a disability does not exempt an offender from following rules.

* **Discipline**

- * Mobility Issues / Wheelchair Accessibility - Was the offender given ample time to arrive at a location? (Failure to Report)
- * Blind / Vision Impaired - Was the offender able to read and/or understand a call pass that was issued? (Failure to Report)
- * Offender was found in possession of a magnifying lens. Does the offender possess a permit for the item? (Unauthorized Property)
- * Does the offender understand the documents presented to them? Were they read to the offender? Was the offender asked if they understand the documents? (Serving Disciplinary Reports)
- * Deaf / Hearing Impaired - How do you know that the offender heard the order given? (Disobeying a Direct Order)
- * Does the offender speak with his/her hands, in expressing communication? (Insolence)

* **Discipline**

*Communication

Successful communication
requires the efforts of all
people involved in a
conversation.



**KEEP
CALM**

AND

**COMMUNICATE
WITH
PRISONERS!**

* ADA Individualized Communication Plan (DOC 0401)

- * Per AD 04.01.11, if an offender requires accommodation beyond the assistance of a hearing aid, an ADA Individualized Communication Plan should be developed.
 - * Optional identification indicating as deaf or hard of hearing
 - * Authorization for special permit items and auxiliary aids
 - * Coordination of communication accommodations when the information is complex, lengthy, involves legal due process.

The form is titled "ADA Individualized Communication Plan and Permit" and is part of the "ILLINOIS DEPARTMENT OF CORRECTIONS" documents. It includes fields for "Offender Name", "ID#", "Initiating Facility", "Date Issued", and "Expires upon transfer to another facility".

The main section is a table with columns: "Accommodation", "Approved", "Noted", and "Description". The rows include:

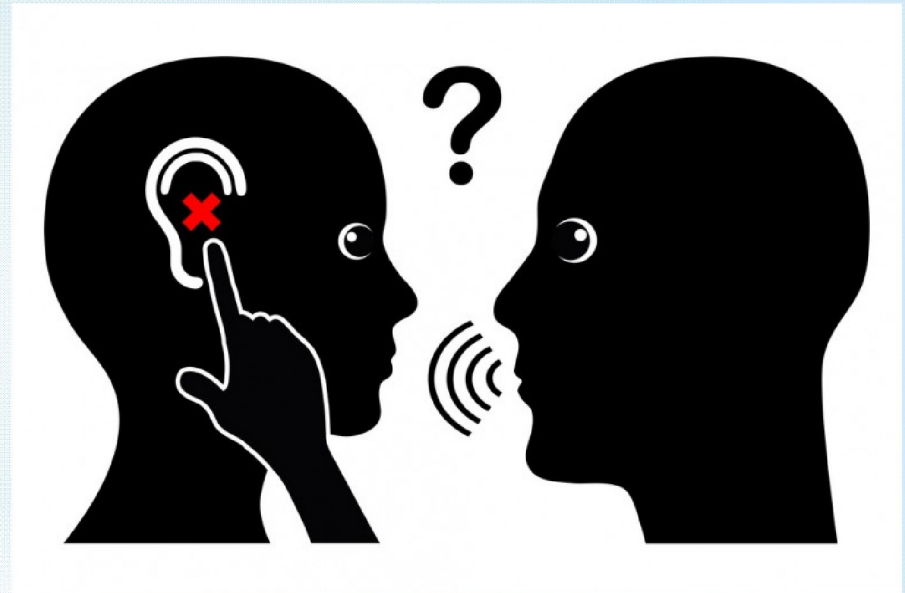
- Alternative Notification of Auditory Announcements
- Hearing Aid
- TV Description (only if requested by Offender)
- Closed Captioning
- TTY Equipment
- Special Permit Items (e.g. vibrating watch, headphone, amplifier)
- Auxiliary Aids (e.g. visual aids, writing material, assistive listening devices)
- Other Technology
- Sign Language Interpreter Services
- Other

Below the table, there is an "Approved:" section with a signature line and a date. A note states: "Approval may be revoked, modified, or revised by the Facility ADA Coordinator. Upon transfer, offender must request renewal from the Facility ADA Coordinator at the new facility."

At the bottom, there is a section for "Facility ADA Coordinator" with a signature line and a date. A note states: "Facility ADA Coordinator must sign and date this form." Below this is a section for "Offender" with a signature line and a date. A note states: "Offender must sign and date this form." At the very bottom, there is a section for "Facility ADA Coordinator" with a signature line and a date. A note states: "Facility ADA Coordinator must sign and date this form."

* Communicating with the Hearing Impaired

- * Face the hearing impaired person directly
- * Do not talk from another room
- * Speak clearly, slowly, distinctly, but naturally, without shouting or exaggerating mouth movements
- * Say the person's name before beginning a conversation



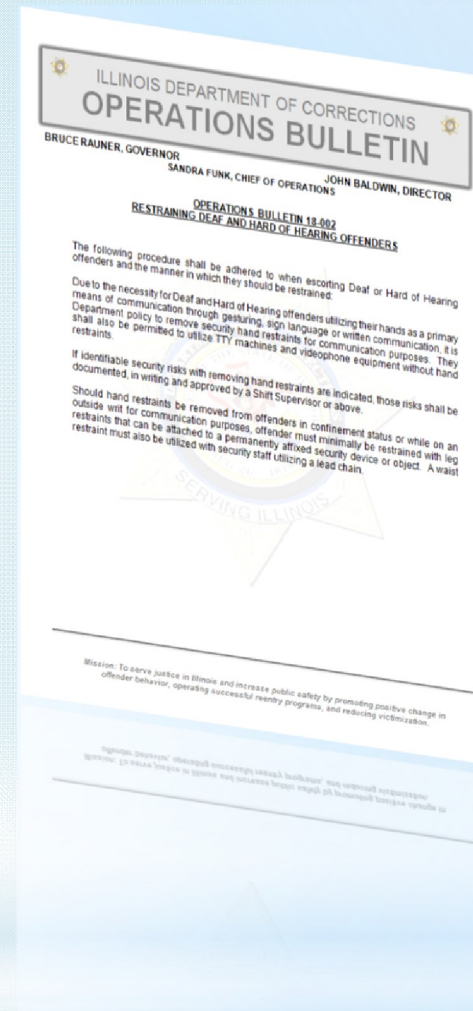
* Communicating with the Hearing Impaired

- * Avoid talking too rapidly or using sentences that are too complex
- * Keep your hands away from your face while talking
- * Know where to position yourself
- * Be aware of possible distortion of sounds for the hearing impaired person
- * Try to minimize extraneous noise when talking
- * Avoid situations where there will be loud sounds when possible
- * Try to find a different way of saying the same thing
- * Acquaint the listener with the general topic of the conversation
- * Have them repeat the specifics back to you
- * Provide pertinent information in writing
- * Recognize that everyone, especially the hard-of-hearing, has a harder time hearing and understanding when ill or tired
- * Pay attention to the listener
- * Take turns speaking

* Communicating with the Hearing Impaired

* Per Operations Bulletin 18-002

- * Due to the necessity for Deaf and Hard of Hearing offenders utilizing their hands as a primary means of communication through gesturing, sign language or written communication, it is Department policy to remove security hand restraints for communication purposes.
- * Permitted to utilize TTY machines and videophone equipment without hand restraints.
- * If identifiable security risks with removing hand restraints are indicated, those risks shall be documented, in writing and approved by a Shift Supervisor or above.
- * Should hand restraints be removed from offenders in confinement status or while on an outside writ for communication purposes, offender must minimally be restrained with leg restraints that can be attached to a permanently affixed security device or object.



* Restraining Deaf and Hard of Hearing Offenders

* If you encounter a concern in dealing with an individual with a disability, such as a change in their mobility or ability to communicate you should document this concern. Complete a DOC 0434 clearly describing your observation or concern and notify a supervisor of this concern. Many offenders tend to hide their disabilities for a variety of reasons. You, as frontline staff, are often the first observer when issues or concerns arise.

* Concerns

*For information regarding specific offenders or overall questions regarding ADA please consult with your facility ADA Coordinator.

*Conclusion