

 <p>State of Indiana Indiana Department of Correction</p>	Effective Date	Page 1 of	Number
	5/1/2021	10	00-02-202
<p>POLICY AND ADMINISTRATIVE PROCEDURE Manual of Policies and Procedures</p>			

<p>Title</p> <p>OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES</p>

<p>Legal References (includes but is not limited to)</p> <p>Americans With Disabilities Act (ADA)</p>	<p>Related Policies/Procedures (includes but is not limited to)</p> <p>00-02-201, 01-01-101, 01-01-102, 01-01-103, 01-02-101, 01-04-101, 01-05-101, 01-06-101, 01-07-101, 01-08-101, 02-01-101, 02-01-105, 03-02-104, 04-02-102, 04-03-103,</p>	<p>Replaces:</p> <p>00-02-202 (Eff. Date 3-1-2019/ ED # 19-01)</p>
---	---	--

I. PURPOSE

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

II. POLICY STATEMENT

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

III. DEFINITIONS:

- A. **ADAPATIVE TECHNOLOGY:** Any product that helps people who are unable to use regular versions of products.
- B. **ADA MEDICAL COORDINATOR:** The identified person responsible for coordinating assistance needed to reduce limitations to regular activities.
- C. **AMERICAN SIGN LANGUAGE (ASL):** The language used by individuals that are hard of hearing or deaf.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	2	10
Title OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- D. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990:** The civil rights law that prohibits discrimination against an individual with disabilities in areas of public life including incarcerated individuals.
- E. **ASSISTIVE TECHNOLOGY (AT):** Any item, piece of equipment, or product system that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
- F. **EFFECTIVE COMMUNICATION:** The ability to convey information to another adequately and efficiently.
- G. **ELECTRONIC MEDICAL RECORD (EMR):** The digital version of paper charts that contain the medical and treatment history of patients in a single location.
- H. **IMPAIRMENT (PHYSICAL OR MENTAL):** Any physiological or psychological disorder that substantially limits one or more of the major life activities.
- I. **MAJOR LIFE ACTIVITIES:** Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- J. **MITIGATING MEASURE:** Any act utilized that eliminates or reduces the symptoms of an impairment in a way that makes it no longer substantially limiting.
- K. **OFFENDER/YOUTH:** An adult or juvenile person committed to a department of correction (federal, State, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including and adult or juvenile under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security.
- L. **PHYSICAL DISABILITY:** A physical impairment that substantially limits one or more major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	3	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- M. **REASONABLE ACCOMMODATION:** Any modification or adjustment that enables an individual with a disability to actively participate in regular activities.
- N. **SPEECH TO SPEECH (STS):** A relay service available to any telephone callers with a speech disability to actively speak with another.
- O. **SUBSTANTIAL LIMITATION:** An individual who is unable to perform, or is significantly limited in the ability to perform, a major life activity that the average person in general population can perform.
- P. **TELEPHONE TO TEXT (TTY):** A telecommunication device for the deaf and hard of hearing that allows the individual to type messages while using the telephone.

IV. GENERAL PROVISIONS

- A. The Department of Correction shall not discriminate against staff, offenders/youth or visitors on the basis of a disability in regards to the provision of services, programs, treatment, and activities. The Department shall ensure the rights of offenders/youth with disabilities are addressed in a manner consistent with legitimate correctional interests.
- B. For the purpose of this policy and administrative procedure, offenders/youth with disabilities are those offenders/youth who are disabled as defined by State and/or federal law.
- C. The Department shall determine the appropriate accommodation based upon the barriers to effective participation and communication or use by the offenders/youth, facility security and safety, accommodation effectiveness, and the cost of providing accommodation.
- D. The Department shall provide all persons, access to:
 - 1. Qualified staff or other persons familiar with the challenges faced by persons with physical and/or mental impairments;
 - 2. Programs designed to educate and assist offenders/youth with disabilities; and,
 - 3. All legal requirements for the protection of offenders/youth with disabilities.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	4	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- E. Offenders/youth with identified disabilities shall be provided reasonable accommodation that allows participation in services, programs, and activities. This accommodation may include:
1. Reasonable modifications to policies, practices and procedures;
 2. Removing barriers to access; and/or,
 3. Providing auxiliary aids and services.
- F. The safety and security of the facilities, staff, offenders/youth, and the public shall take precedence over any modification or accommodation provided to offenders/youth with identified disabilities and may result in the temporary or permanent suspension of any modification or accommodation.
- G. If the modification or accommodation needed to provide effective access would create an undue burden by causing fundamental alteration of a service, program or activity, or undue financial or administrative burdens on the Department, the modification or accommodation may be denied. In cases where a modification or accommodation is denied, the denial shall be submitted to the Chief Counsel who shall review the reasons for the denial and discuss the denial with other appropriate staff to determine whether other means exist to provide effective access.
- H. Each facility shall designate a staff person who can assist offenders/youth with disabilities to obtain needed services and access to programs. This person shall be the designated Americans with Disabilities (ADA) Coordinator for the facility.
- I. For daily living activities, staff or other offenders/youth may assist a hearing impaired offender/youth to understand the activities taking place around them. However, in matters that involve a liberty interest (e.g., Classification hearing, Disciplinary Hearing, etc.), staff shall ensure that the offender/youth is given the option of a certified interpreter and a certified interpreter is obtained to assist in explaining the situation. In matters of a medical nature, the offender/youth shall speak with the ADA Medical Facilitator for any needs.
- J. In cases where a physical disability or the need for an accommodation is temporary, staff shall review these cases on a case-by-case basis to determine the appropriate manner in which to address the temporary physical disability or accommodation. These cases shall be reviewed in a Multidisciplinary Team approach with Health Services staff.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	5	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- K. In cases where an offender/youth arrives in the Department without a physical disability but develops a physical disability while incarcerated in the Department, the offender/youth shall be referred to the Health Services staff at the facility, in accordance with Health Care Services Directive 2.02Y, “Youth with Physical Disabilities.” The ADA Medical Coordinator shall work with the facility ADA Coordinator to sort out any needs.

V. INTAKE PROCESS

- A. All offenders/youth received at an Intake Unit shall be provided with a “Notice of Rights for Offenders with Disabilities,” (See Attachment) unless the offender/youth cannot read or is visually impaired and cannot read the Notice, in which case staff shall read the Notice to the offender/youth and ensure that the information is understood. Staff shall explain the procedure for requesting an accommodation in a manner the offender/youth can understand. This Notice shall be presented during the offender’s/youth’s orientation at the Intake Unit. The offender/youth shall be given an opportunity to sign for receipt of the Notice. The signed Notice shall be placed in the offender’s/youth’s facility packet.
- B. As soon as possible after an offender/youth arrives at an Intake Unit, Health Services staff shall make an initial assessment as to whether a physical disability is present.
- C. The offender/youth shall be responsible for making known any needs due to a disability to Health Services and/or Classification staff as soon as possible during the Intake process. The ADA Medical Coordinator shall work in conjunction with the facility ADA Coordinator to meet the needs of the offender/youth.
- D. If Health Services staff, or any staff, determines that the offender/youth has a physical disability, the ADA Medical Coordinator shall be notified.
- E. The facility ADA Coordinator and the ADA Medical Coordinator shall meet with the offender/youth to attempt to determine the degree of disability and what accommodations have been made for the offender/youth in the past and whether those accommodations are available at the facility and can be made.
- F. If Health Services staff determines that the offender’s/youth’s disability is hearing impairment, the ADA Medical Coordinator shall contact the Deaf and Hard of Hearing Services (DHHS), Division of Disability and Rehabilitative Services (DDRS) of the Family and Social Services Administration, to arrange for an assessment by DHHS staff.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	6	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

1. If the assessment determines that the offender/student is deaf, staff shall ensure understanding of the Classification process. If the offender/youth understands American Sign Language, the offender/youth shall be given access to an interpreter to ensure that the offender/youth understands the Intake process and the Classification process.
 2. If an interpreter is needed, the ADA Coordinator shall work with all appropriate staff to ensure that an interpreter is scheduled for any hearings or meetings with the offender/youth. (NOTE: Interpreters shall be obtained through the QPA established for State agencies.)
- H. At the completion of the Intake and Classification processes, staff shall attempt to assign the offender/youth to an appropriate facility that can provide the accommodations to address his/her disability in accordance with any assessment that has been completed. Staff shall consider the recommendations made in the assessment of the offender/youth and the Disability Classification status assigned by Health Services staff.

VI. FACILITY ASSIGNMENTS

- A. Offenders/youth with disabilities shall be assigned to facilities consistent with their health, safety, and security requirements. To the greatest extent possible, housing assignments for offenders/youth with disabilities shall be accessible and allow for interaction with others.
- B. Facilities shall develop a process to ensure staff receives updated information regarding the specific needs of offenders/youth with disabilities during annual reviews and as needed.
- C. Offenders/youth with disabilities shall be given the opportunity to participate in program and work assignments for which they qualify and for which they can meet/perform the basic and/or essential functions of the assignment.
- D. The facilities shall ensure that appropriately trained persons are assigned to assist the disabled offender/youth who is not able to perform basic life functions.
- E. Offenders/youth with disabilities shall receive education, equipment, and support necessary to perform self-care and personal hygiene in a reasonably private setting.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	7	10
Title OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- F. Upon arrival at the facility from an Intake Unit, designated staff shall review the offender's/youth's packet to determine if an assessment has been conducted regarding a disability. If such an assessment has been conducted, the staff person shall ensure that this assessment and any included recommendations are provided to the Classification Committee for consideration.
- G. The Classification Committee shall consider any information provided by the offender/youth student, Health Services staff and/or other persons qualified to evaluate the disability and accommodation needs when classifying the offender/youth and determining what modifications or accommodations are reasonable.
- H. Facilities may establish specific housing units or bed assignments for offenders/youth with disabilities. For example, a specific housing unit or bed assignment may be fitted with equipment necessary for the disabled offender's/youth's needs (e.g., for deaf offenders/youth these accommodations may include a strobe light connected to the audible fire alarm or a vibrating alarm clock, etc.).
- I. Once classified and provided a housing unit and bed assignment, the Classification Committee shall ensure that the offender's/youth's Unit/Treatment Team is made aware of the modifications or accommodations that have been approved.

VII. COMMUNICATION

- A. Staff shall directly and effectively communicate information, announcements, procedures, and other rules to offenders/youth with disabilities.
- B. The facility's ADA Coordinator shall work cooperatively with the Division of Staff Development and Training to provide training to staff that will have direct contact with offenders/youth with disabilities.
- C. Adult facilities may establish a "helper/aid" work assignment for an offender without disabilities to assist an offender who has a disability. In these cases, the "helper/aid" may assist the disabled offender with routine life activities, including assisting the offender to get to meals on time, to understand basic communications/instructions, or to be made aware of other daily information. "Helper/aids" shall not be used to interpret for a hearing impaired offender during educational programming, Classification hearings, Disciplinary hearings, or Health Services appointments.

POLICY AND ADMINISTRATIVE PROCEDURE

Indiana Department of Correction

Manual of Policies and Procedures

Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	8	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- D. Facilities housing physically disabled offenders/youth shall ensure that any necessary equipment (e.g. TTY telephone equipment, Braille material in Law Libraries and school) is made available to a disabled offender/youth. The facility shall ensure that the offender/youth is made aware of the manner in which to access this equipment, including availability and the duration of use. (Staff shall be mindful that the use of equipment, such as TTY equipment, is more time consuming than normal conversations and shall adjust the time that a disabled offender/youth will be provided to make telephone calls.)
- E. In those cases where hearing impaired offenders/youth use American Sign Language (ASL), facilities shall ensure that whenever the offender/youth is involved in a Classification or Disciplinary Hearing or any other activity that may impact a liberty interest, a licensed/certified interpreter fluent in ASL is obtained and interprets for the offender/youth during the hearing or other activity.
1. Due to the need to arrange for the interpreter, time limits for holding these hearings shall be extended for the length of time required to ensure the appearance of the interpreter.
 2. Facilities shall attempt whenever possible to utilize the interpreter by scheduling multiple hearings on the same day.
 3. A facility shall work in conjunction with the Divisions of Operations, Fiscal, and Reentry to determine the most efficient method of funding for the use of interpretive services. However, a facility shall make every effort to obtain the services of an interpreters through the QPA established for state agencies.
 4. Staff shall work cooperatively with the interpreter to ensure that the hearing proceeds efficiently and effectively.
- F. Facilities shall ensure that offenders/youth with disabilities are made aware that they are subject to the same or similar security measures as other offenders/youth. For example, disabled offenders shall be subject to the same or similar search and shakedown procedures as other offenders/youth, consistent with their disability. For those offenders/youth students who must have special accommodations during these security measures, the Shift Supervisor shall provide directions to staff and the offender/youth regarding any modifications or accommodations that are to be made.

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	9	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

- G. Facilities are encouraged to be as creative as possible to ensure that hearing impaired offenders/youth are able to communicate with staff, visitors and other offenders/youth. Facilities may use licensed/certified interpreters, computers with voice recognition software, interpretation equipment, TTY telephone equipment, staff, other offenders/youth or any other appropriate mechanism to ensure proper communication.
- H. The Department shall assign staff to routinely investigate and assess equipment that may be available to assist offenders/youth with physical disabilities to function adequately within the facilities.
- I. An educational contract provider shall be responsible to provide an interpreter for offenders/youth requiring assistance during classroom instruction for ABE/TASC and vocational classes.

VIII. EMERGENCY PROCEDURES

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

IX. CONTRACTUAL FACILITIES

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

POLICY AND ADMINISTRATIVE PROCEDURE			
Indiana Department of Correction			
Manual of Policies and Procedures			
Number	Effective Date	Page	Total Pages
00-02-202	5/1/2021	10	10
Title			
OFFENDERS/YOUTH WITH PHYSICAL DISABILITIES			

X. APPLICABILITY

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

signature on file _____
 Robert E. Carter, Jr.
 Commissioner

_____ Date