



Virginia Department of Corrections

Inmate Management and Programs

Operating Procedure 801.3

Managing Inmates and Probationers/Parolees with Disabilities

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REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

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DEFINITIONS

Accessible Format – Alternative ways of presenting printed, written, or visual material such as large print, audio recordings, and electronic formats so that inmates with visual or other impairments who cannot read standard print can access the material.

American with Disabilities Act (ADA) Coordinator - A Department of Corrections employee assigned to coordinate the Department's efforts to comply with and carry out its responsibilities under the provisions of Title II of the *Americans with Disabilities Act* to include the review of complaints alleging non-compliance with requirements of non-discrimination for inmates and CCAP Probationers/Parolees with disabilities and coordination of DOC's efforts to comply.

Assistive Technology - Any item, piece of equipment, software program, or product system used to increase, maintain, or improve the functional capabilities of an inmate with a disability.

Auxiliary Aids and Services - Assistance provided through services, equipment, or modifications to provide equal access for disabled or impaired individuals to activities, programs, and privileges, these aids and services may include, but are not limited to:

- Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
- Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals who are blind or have visual impairments.
- Functional devices to increase mobility including but not limited to walkers, canes, crutches, and manual or powered wheelchairs for individuals with mobility impairments.
- Acquisition or modification of equipment or devices and other similar services and actions.

Basic Blindness Skills – Specific skills that blind inmates may require to maintain their independence and quality of life to include mobility and orientation, computer and assistive technology use, ability for effective written communication, vocational and independent, environment management skills.

Blindness/Blind - A physical impairment where generally an inmate's vision is 20/200 or worse, the inmate's visual field is less than 20 degrees, or the inmate has low vision or other vision impairment that substantially limits their ability to see as determined by a Medical Practitioner.

Chief of Housing and Programs (CHAP) - The facility/institutional staff member designated to conduct informal inmate or CCAP probationer/parolee case review hearings such as outside work classification, job assignments/removals, academic and vocational assignments/removals, and assignments/removals from treatment programs, and who is tasked with maintaining a blind inmate's *Individual Accommodations List* in a place accessible to all staff under the CHAP's supervision.

Communication Disability - Any impairment related to speech, language, and/or auditory processing; it includes hearing impairments, visual impairments, and cognitive impairments evidenced by an inability to speak, read, and/or understand written or oral communications of information provided at the facility.

Community Corrections Alternative Program (CCAP) - A system of residential facilities operated by the Department of Corrections to provide evidence-based programming as a diversionary alternative to incarceration in accordance with COV §53.1-67.9, *Establishment of community corrections alternative program; supervision upon completion*.

Health Authority - The Health Administrator responsible for the provision of health care services at a facility or system of institutions. The responsible Physician may be the Health Authority.

Health Care Practitioner - A Clinician trained to diagnose and treat patients, such as Physician, Psychiatrist, Dentist, Optometrist, Nurse Practitioner, Physician Assistant, and Psychologist.

Health Care Provider (HCP) - An individual whose primary duty is to provide health services in keeping with their respective levels of licensure, health care training, or experience.

Health-Trained Staff - Correctional Officers or other correctional staff who are trained and appropriately supervised to carry out specific duties regarding the administration of health care.



Individual Accommodations List – An inmate specific document maintained and updated by the Facility ADA Coordinator to document a blind inmate’s trainings and other accommodations approved by the facility where the inmate is housed.

Inmate - A person who is incarcerated in a Virginia Department of Corrections facility or who is Virginia Department of Corrections responsible to serve a state sentence.

Key Print Materials – Printed material routinely provided to or frequently used by all DOC inmates or all inmates at a specific facility.

Major Life Activities (Inmate and CCAP Probationer/Parolee) - Include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, toileting, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Medical Practitioner - A Physician, Nurse Practitioner, or Physician’s Assistant.

Mobility Impairments - Inability to move about without the aid of a cane, splint, crutches, wheelchair, walker, or any other form of support or because of limited functional ability to ambulate, climb, descend, sit, rise, or perform any related function.

Organizational Unit - A DOC unit, such as a correctional facility, Regional Office, Probation and Parole Office, Virginia Correctional Enterprises, Academy for Staff Development, Infrastructure and Environmental Management Unit, Agribusiness Unit, and individual headquarters units, e.g., Human Resources, Offender Management, Internal Audit.

Physical or Mental Impairment - Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organ, respiratory (including speech organs), cardiovascular, reproductive, immune, digestive, genitourinary, hemic or lymphatic, skin and endocrine; or any mental or psychological disorder, such as mental retardation (Developmental Disorder), 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.

Probationer/Parolee - A person who is on community supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of Courts, paroling authorities, the Virginia Department of Corrections, or other release authority; this includes post release supervision and Community Corrections Alternative Programs.

Prosthesis or Orthotic - An artificial device to replace a missing body part or to compensate for a defective body function, including, but not limited to:

- Artificial limbs
- Eyeglasses
- Contact lenses
- Dentures
- Hearing aids
- Orthopedic shoes
- Crutches, wheelchair, braces, support bandages, girdles, etc.

Qualified Caregiver - An inmate who is employed to assist an inmate with a disability in their daily activities.

Qualified Individual with a Disability (Inmate and CCAP Probationer/Parolee) - An inmate or CCAP probationer/parolee 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 the facility.



Reasonable Accommodation (Inmate and CCAP Probationer/Parolee) - A modification, action, or adjustment that will assist an inmate or CCAP probationer/parolee with a disability in the performance of essential functions or that is necessary to prevent an inmate or CCAP probationer/parolee with a disability from being excluded from participation in or being denied the benefits of the services, programs and/or activities of the facility or subjected to discrimination by the facility without causing an undue burden to the facility or to the safety and security of the inmate or CCAP probationer/parolee, or any other person.

TDD Devices, Videophones, Video Relay Services - Devices and services that assist hearing impaired inmates and CCAP probationers/parolees to communicate through the inmate and CCAP probationer/parolee telephone service

Undue Burden - Public entities are not required to provide an accommodation that would fundamentally alter the program, service, or activity for which the accommodation is requested, or that would result in an undue financial or administrative burden. If the accommodation requested by an inmate with a disability would result in an undue burden or a fundamental alteration, DOC still has an obligation to provide another aid or service that accommodates the inmate, if possible. When considering whether an accommodation causes an undue burden, DOC should take into consideration whether the accommodation would result in a safety or security risk to any inmate, staff member, or DOC facility and whether the accommodation is administratively feasible.

PURPOSE

This operating procedure provides guidelines for the management of and provision of reasonable accommodations to inmates, CCAP probationers/parolees, and probationers/parolees on supervision in the community with disabilities. It describes the levels of services available, methods by which assignments are made, and appropriate security measures for inmates and CCAP probationers/parolees with disabilities in accordance with 42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990*, as Amended and COV §51.5-1 et seq., *The Virginians with Disabilities Act*.

PROCEDURE

- I. Staff Training, Responsibilities, and Inmate and CCAP Probationer/Parolee Orientation
 - A. All staff, contract staff, interns, and volunteers who regularly interact with inmates and CCAP probationers/parolees will receive instruction on providing accommodations for inmates and CCAP probationers/parolees with disabilities and the requirements of this operating procedure.
 - B. All staff and contract staff must complete the mandatory *Americans with Disabilities Act (ADA)* on-line training, annually. Upon completion of the training, staff must print a copy of the certificate and submit it to unit training staff or their immediate supervisor for organizational units without training staff.
 - C. Staff will inform all inmates and CCAP probationers/parolees during intake and formal orientation of their right to non-discrimination based on a disability and the process for requesting a reasonable accommodation; see Operating Procedure 810.1, *Inmate Reception and Classification*, Operating Procedure 810.2, *Transferred Inmate Receiving and Orientation*, and Operating Procedure 940.4, *Community Corrections Alternative Programs*. (5-ACI-3D-04)
 1. Staff must inform all inmates transferred directly to the infirmary or a restorative housing unit as a part of orientation of their right to non-discrimination based on a disability and the process for requesting a reasonable accommodation.
 2. Staff will provide every inmate and CCAP probationer/parolee, at arrival, with a copy of Attachment 1, *Notice of Rights for Inmates and CCAP Probationers/Parolees with Disabilities*, which includes the DOC ADA Coordinator's contact information.
 3. The Facility Unit Head or designee will include the Facility ADA Coordinator's name and contact information in the facility *Orientation Manual, Packet*, and/or other written orientation materials.
 - D. Information about the nature and extent of an inmate's or CCAP probationer's/parolee's disability may be disclosed when necessary to assist the inmate or CCAP probationer/parolee, or as provided for under this operating procedure.
 - E. Staff Responsibilities
 1. Reading and writing
 - a. Staff will assist blind inmates and inmates with a disability with reading and writing information such as grievances, medical forms, personal mail, or financial information if the inmate requests assistance with reading and writing those materials.
 - b. A Counselor will assist blind inmates with reading and writing materials in a timely manner and will schedule a weekly meeting with any blind inmate in need of assistance with reading and writing.
 - c. Staff must protect the inmate's privacy by keeping sensitive information confidential to the greatest extent possible and as consistent with DOC's operating procedures and safety and security.
 2. Assisting blind inmates with navigating their physical space.
 - a. Subject to safety and security considerations, staff must assist disabled and blind inmates with navigating their physical space, including their housing unit, dining hall, and any other areas in which the inmate has regular access.



- b. This section does not require staff to assist with personal services, such as assistance with eating, toileting, or dressing.
3. Assisting blind and disabled inmates with operating assistive technology.
 - a. Staff must assist disabled or blind inmates with operating any assistive technology such as screen reader software or document scanners to the best of their ability.
 - b. Any staff member who requires training on operating assistive technology, staff should contact the facility's ADA Coordinator.

II. DOC and Facility ADA Coordinators

- A. Staff, inmates, and CCAP probationers/parolees have access to a DOC ADA Coordinator and a Facility ADA Coordinator.
- B. The DOC and Facility ADA Coordinators are appropriately trained and qualified individuals, educated in the problems and challenges faced by inmates and CCAP probationers/parolees who have physical and/or mental impairments, the programs designed to educate and assist inmates and CCAP probationers/parolees with disabilities, and legal requirements for the protection of inmates and CCAP probationers/parolees with disabilities. (5-ACI-5E-03; 4-ACRS-6A-01-1)
- C. The Facility ADA Coordinator Responsibilities:
 1. Create and maintain an ADA File for all inmates at the ADA Coordinator's facility that have been identified as having a disability or requiring accommodations under the *Americans with Disabilities Act*. An inmate's ADA File must include:
 - a. The inmate's *Individual Accommodations List*, if applicable
 - b. All the inmate's *Reasonable Accommodation Requests* and responses thereto (including any denials of *Reasonable Accommodation Requests*)
 - c. Copies of any rejection(s) for a work assignment stating all the reasons for the rejection and any reasonable modifications considered before reaching that decision.
 - d. Copies, if any, of any request for a specific inmate to act as the inmate's Qualified Caregiver.
 2. Develop, maintain, and update a disabled or blind inmate's *Individual Accommodations List(s)* to document the inmate's training and approved accommodations
 3. Document every *Reasonable Accommodation Request* denial and maintain such documentation in the inmate's ADA File consistent with the Library of Virginia's document retention and disposition schedules
 4. Notify staff of an inmate's *Individual Accommodations List* and where the list is maintained
 5. Notify staff assigned to the inmate's housing unit when a new accommodation to a blind or disabled inmate is granted
 6. Provide each blind or disabled inmate with a copy of their *Individual Accommodation List* in an accessible format for that inmate
 7. Store the blind or disabled inmate's *Individual Accommodations List* in the inmate's ADA file and maintain a copy in a file accessible to the CHAP and all staff under the CHAP's supervision
 8. Maintain a current list of all facility approved accommodations provided to blind and disabled inmates and CCAP probationers/parolees
 9. Make rounds twice per month to be available to disabled inmates and CCAP probationers/parolees. The Facility ADA Coordinator should document their rounds in facility logbooks
 10. Serve as a resource to answer any questions presented by inmates or staff regarding disability accommodations and ADA policy

III. Inmates and CCAP Probationers/Parolees with Disabilities

- A. Inmates and CCAP probationers/parolees are essentially dependent on the physical conditions of and services provided by the facility.
- B. Staff must ensure inmates and CCAP probationers/parolees with disabilities are not excluded from participation in or denied the benefits of facility services, programs and activities, and are not subjected to discrimination. (5-ACI-5E-02; 4-ACRS-6B-01)
- C. Staff must make reasonable accommodations for inmates and CCAP probationers/parolees with disabilities, consistent with and as required by 42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990*, as Amended and COV §51.5-1 et seq., *The Virginians with Disabilities Act*.
- D. The accommodations provided must allow for inmate and CCAP probationer/parolee participation in services, programs, and activities that may include but not be limited to: (5-ACI-2C-11; 4-ACRS-6A-04)
 - 1. Provision of medical and mental health and wellness care, medication, auxiliary aids and services, and protection from weather related injury.
 - 2. Removal of barriers to physical plant access or transfer to a facility that meets the inmate's or CCAP probationer's/parolee's needs
 - 3. Modification to procedure and/or facility practice, unless the facility can demonstrate that making the modification would fundamentally alter the nature of the service, program, or activity
- E. Staff must provide inmates and CCAP probationers/parolees with a disability with education, durable medical equipment, supplies and facilities, and the support necessary to perform self-care and personal hygiene in a reasonably private environment. (5-ACI-2C-13; 4-ACRS-6A-04-2)
- F. The Facility Unit Head or designee must ensure that inmates and CCAP probationers/parolees have access to a toilet consistent with their medical needs as determined by a facility Medical Practitioner.

IV. Qualified Caregivers (5-ACI-2C-12; 4-ACRS-6A-04-1)

- A. Qualified caregiver is a Grade 3 inmate work assignment. Eligible inmates will be reviewed for this assignment in accordance with Operating Procedure 841.2, *Inmate Work Programs*.
 - 1. To be considered for the position, the inmate applicant must:
 - a. Have their High School Equivalency or High School Diploma
 - b. Be able to read and write effectively, accurately, and impartially and,
 - c. Not be a member of a security threat group/gang
 - 2. Inmates employed as a Qualified Caregiver for a blind inmate must receive the same blindness skills training necessitated by the blind inmate's condition and as offered by the Department for the Blind and Vision Impaired.
 - 3. Staff at DOC facilities where Qualified Caregivers are offered will assign a Qualified Caregiver to each blind inmate unless the inmate declines such assistance in writing on the *Declination of Qualified Caregiver* 801_F9 or a Qualified Caregiver is not available.
 - a. If a Qualified Caregiver is not available, the Counselor will meet with the blind inmate at least once a week in the interim to assist the blind inmate with any accommodations.
 - b. Staff must take into consideration the blind inmate's request, if any, for a specific caregiver consistent with the safety of the blind inmate, the Qualified Caregiver, other inmates, DOC staff, and the facility.
 - 4. If a blind inmate's request for the assignment of a specific inmate to serve as their Qualified Caregiver is denied, the denial should be documented, and a copy of the denial should be placed in the inmate's ADA File.
 - 5. If a blind inmate's request for an assignment of a specific inmate to serve as their Qualified Caregiver



is denied, staff should continue to search for another Qualified Caregiver to be assigned to the blind inmate.

6. If the blind inmate does not request a specific Qualified Caregiver, staff will take into consideration the safety of the blind inmate, the qualified caregiver, DOC staff, and the facility when making a Qualified Caregiver assignment.
7. If a blind inmate declines the assistance of a Qualified Caregiver, the blind inmate and Facility ADA Coordinator should complete the *Declination of Qualified Caregiver* 801_F9.
 - a. The blind inmate and the assigned Qualified Caregiver must complete the *Qualified Caregiver Agreement* 801_F10 before the Qualified Caregiver is assigned to the blind inmate.
 - b. Staff must notify the blind inmate and assigned Qualified Caregiver that a failure to complete and sign the *Qualified Caregiver Agreement* 801_F10 will prevent staff from assigning a Qualified Caregiver to the blind inmate.
 - c. A copy of the completed *Declination of Qualified Caregiver* 801_F9 or the *Qualified Caregiver Agreement* 801_F10 form must be kept in the blind inmate's ADA File.
- B. If the blind inmate and Qualified Caregiver agree, the Qualified Caregiver must be assigned to the same cell as the blind inmate to whom the caregiver is assigned, or within two beds of the blind inmate's assigned bed if in a dormitory, consistent with maintaining the safety and security of the Qualified Caregiver, the blind inmate receiving assistance, other inmates, DOC staff, and the facility, and after considering whether such assignment poses an undue burden or fundamental alteration to any DOC facility.

V. Communication Disability Specific Requirements

- A. When a communication disability hinders an inmate's or CCAP probationer's/parolee's ability to communicate:
 1. Staff, contract staff, and interns are responsible for communicating information, announcements, procedures, and other directions to inmates and CCAP probationers/parolees with communication disabilities in a manner that will maximize the inmate's or CCAP probationer's/parolee's ability to comprehend and understand the information.
 2. Staff must provide the inmate or CCAP probationer/parolee with the necessary accommodations to assist them during orientation, medical care, mental health and wellness care, educational testing and evaluation, and in any explanation of facility rules and procedures.
 3. Staff must make the inmate or CCAP probationer/parolee aware of all facility announcements and alerts such as work call, critical incidents, school, meals, count, etc.
 4. Staff must provide the inmate or CCAP probationer/parolee with reasonable accommodations to ensure the inmate or CCAP probationer/parolee and health care providers are able to communicate effectively during all scheduled facility appointments to include but not limited to any review of medical history, medical appointments, follow-up appointments, and treatment sessions.
 - a. When staff transport an inmate or CCAP probationer/parolee for health care, a facility health care provider will inform the offsite health care provider, as far in advance of the appointment as possible, that the inmate or CCAP probationer/parolee seeking care has a communication disability such as deafness and requires a qualified interpreter or other auxiliary aids and services.
 - b. In the case of an emergency, a facility health care provider will inform offsite medical providers that an inmate or CCAP probationer/parolee with a communication disability such as deafness that requires an in-person qualified interpreter or other auxiliary aids and services is being transported to them on an urgent basis. Notification will include an estimated time of arrival.
 - c. A facility health care provider will ensure that the inmate's or CCAP probationer's/parolee's communication disability and the need for an accommodation is documented on the *Offender Gate Pass* and recorded in the Health Record for all inmates and CCAP probationers/parolees transported



for offsite health care.

- B. A conspicuous notice of an inmate's or CCAP probationer's/parolee's communication disability i.e., hard of hearing, speech impairment, language translation, vision impairment must be noted on the inmate's or CCAP probationer's/parolee's Health Record when the disability affects their ability to communicate. An appropriate advisory regarding this disability must be designated in VACORIS and provided to facility staff.

VI. Specific Considerations Related to Blind and Vision Impaired Inmates

- A. All inmates will receive a vision test upon intake into the DOC from a jail or other non-DOC facility and, when applicable, upon arrival on transfer at another DOC facility; see Operating Procedure 810.1, *Inmate Reception and Classification* and Operating Procedure 810.2, *Transferred Inmate Receiving and Orientation*.

1. Inmates who become blind or who were not otherwise identified as blind at intake or transfer may request an eye examination using the established sick call process; see Operating Procedure 720.1, *Access to Health Services*.
2. The facility Health Care Provider, upon inmate request, will evaluate the inmate in a timely manner. If the eye examination results indicate that further evaluation is required, the inmate will be referred to a Medical Practitioner or outside specialist for additional assessment to determine the degree of vision loss; see Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*.

B. Department for the Blind and Vision Impaired (DBVI) Evaluation Process

1. Within ten days of receiving notification that an inmate has been determined to be blind by a medical professional, see Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*, the Facility ADA Coordinator will request that DBVI, at their earliest availability, evaluate the inmate to assess the inmate's:
 - a. Basic Blindness Skills
 - b. Appropriate Accessible Formats for Reading and Writing
 - c. Assistive Technology
 - d. Auxiliary Aids and Services
 - e. Other Reasonable Modifications
 - f. Training Needs
2. The Facility ADA Coordinator, or the ADA Coordinator's designee, will meet with the inmate within 30 days of receiving the DBVI results from the inmate's evaluation to discuss the assessment findings and what training and other accommodations the inmate is interested in receiving based on DBVI's recommendations.
 - a. Within fourteen (14) days of the meeting between the blind inmate and the Facility ADA Coordinator, or designee, upon agreement of the blind inmate and DOC, staff will request the trainings and other accommodations, assistive technology, auxiliary aids and services, and accessible formats recommended for or required by the blind inmate and will provide them.
 - b. The Facility ADA Coordinator or designee, will consider the blind inmate's preferred accessible format and other auxiliary aids and services and will honor the inmate's choice unless it is demonstrated that another equally effective means of communication is available or the inmate's choice presents an undue burden, fundamentally alters the program or activity in question, or poses a threat to safety and security.
3. When a DBVI recommended training, accommodation, auxiliary aid or service or assistive technology device is denied the Facility ADA Coordinator or designee will:
 - a. Provide a written explanation as to the reasons why the training, accommodation, aid, service, or technological device constitutes an undue burden, fundamental alteration to facility operations, or



a security concern.

- b. Document in writing how the denial meets the requirements of 28 C.F.R. §35.1-164, *Duties*.
 - c. Maintain a copy of all denials for DBVI recommended training, accommodations, auxiliary aids or services or assistive technology devices in the inmate's ADA File.
- 4. If, at any time, a blind inmate requests a basic blindness skills evaluation, training on a particular accessible format, assistive technology, auxiliary aid or service, or other reasonable modification, the Facility ADA Coordinator will follow the established process and time limits for DBVI evaluation, training, and the provision of accommodations as detailed in this operating procedure.
 - 5. DOC and DBVI staff are not required to provide training or accommodations to a blind inmate if the inmate refuses the trainings or accommodations.

C. Accessible Materials

- 1. DOC will make the following key print materials available in large print for blind and vision impaired inmates:
 - a. Inmate handbooks, orientation manuals and other written materials provided to other inmates.
 - b. Inmate accessible operating procedures and associated attachments.
 - c. Any DOC materials available to other inmates to prepare for or request parole, community corrections or release.
 - d. Memoranda and other announcements posted for inmate review or posted to provide information to the inmate population.
 - e. Forms and any other information routinely provided to inmates regarding the following:
 - i. Inmate Grievance and Discipline Process
 - ii. Classification Proceedings
 - iii. Commissary Items List
 - iv. All medical forms, not to include inmate medical records, blind inmates are required to complete or sign including:
 - (a) Sick Call Request Forms
 - (b) Emergency Medical Request Forms
 - (c) Refusal of Treatment Forms
 - (d) Consent to Release Medical Information Forms
 - (e) Vaccination Forms
 - v. Reasonable Accommodation Requests
 - vi. Facility Request Forms
 - vii. Personal Property Forms
 - viii. Inmate Trust System Forms
 - ix. Inmate Telephone Approvals
 - x. Visitor Lists
- 2. The Facility ADA Coordinator will ensure key print materials are available in large print in the facility library, law library, and all other locations where those documents are regularly maintained for inmate access.
- 3. When key print materials are revised or newly issued, the Facility ADA Coordinator will ensure these materials are available in an accessible format to blind inmates within two business days of the materials being made available to the rest of the inmate population.
- 4. When printed material available to the inmate population is not provided in large print, the Facility ADA Coordinator or designee will create and provide a large print copy (18 font or larger) of the material to the blind inmate.
- 5. The inmate's Counselor or a Qualified Caregiver consistent with the blind inmate's choice must assist a blind inmate with reading printed materials when the material is not available in an accessible format



or is received in an inaccessible (print or handwritten) format.

D. Staff Assistance

1. Staff must issue all inmate accessible documents or provide a way for blind inmates to access such documents independently in their required accessible format once it is established that the inmate needs a print accommodation such as large print, accessible electronic, or audio format. Blind inmates will not be required to re-request documents in their accessible format each time a printed document is issued.
 2. Staff will respond to DOC forms i.e., approval or denial of a request for accommodation, disposition of contraband/property, rejection of mail, grievance response, etc. in legible, large print handwriting (not cursive) in a thick, dark marker or pen on a separate sheet of paper attached to the response form. When available, staff will provide responses to these forms on a separate large print, typewritten sheet.
 3. Staff will announce each time a new memorandum, job posting, or other print announcement is posted to a bulletin board or added to a titler system in each housing unit where blind and vision impaired inmates are assigned.
 - a. The staff member will read through the content of the print announcement in its entirety.
 - b. Staff will record the announcement on a digital recorder available for blind and vision impaired inmates to check out in the housing unit.
 - c. Staff are not required to record announcements signaling the start of a daily routine, such as chow call, pill call, and recreation.
- E. A conspicuous notice of an inmate's blindness or vision impairment must be noted in the inmate's Health Record when the disability affects the inmate's ability to communicate. An appropriate advisory regarding this disability must be designated in VACORIS and provided to facility staff.

VII. Probationers and Parolees with Disabilities on Supervision in the Community

- A. Reasonable accommodations must be made for all probationers/parolees with disabilities on supervision in the community, consistent with and as required by the 42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990*, as Amended and COV §51.5-1 et seq., *The Virginians with Disabilities Act*.
- B. Staff must make accommodations to allow for probationer/parolee participation in services, appointments, programs, and required activities.
- C. Since probationers/parolees are on supervision in the community and are not confined to a facility, alternate locations can be used, when needed.
- D. Due to the DOC's ability to use alternate locations, not all P&P Offices are required to be structurally compliant with ADA.

VIII. Determination of Disability and Reasonable Accommodations

- A. A facility health care provider or health-trained staff member will perform an intake health screening on all inmates and CCAP probationers/parolees immediately upon their arrival at a Reception and Classification Center or a Community Corrections Alternative Program (CCAP); see Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*.
 1. A facility health care provider or a Mental Health Clinician will perform an intake mental health screening on all inmates upon an inmate's arrival at a Reception and Classification Center.
 2. Staff members performing the health care and mental health screening will afford inmates and CCAP probationers/parolees the opportunity to disclose their present and prior disabilities and needs, and to request an accommodation(s) for their disability during the screening. The staff member will:
 - a. Question the inmate or CCAP probationer/parolee regarding any previous accommodation(s).
 - b. Discuss modified or additional accommodations as appropriate.



- c. Make appropriate notations in the inmate's or CCAP probationer's/parolee's Health Record.
3. When an inmate or CCAP probationer/parolee arrives at a facility with an approved accommodation, medical equipment or an assistive device that presents a safety or security concern, or undue burden, the Facility Unit Head, in consultation with the facility Medical Practitioner and the DOC ADA Coordinator, will decide on removal of the item to minimize risk and will provide alternate appropriate accommodations.
 - a. The facility Health Care Practitioner may consult with the Facility ADA Coordinator and DOC ADA Coordinator, as needed to determine if a requested accommodation is within the scope of the ADA.
 - b. Accommodations approved for a blind inmate at one institution will remain approved upon the inmate's transfer to another institution, unless:
 - i. The inmate is found to have abused the accommodation
 - ii. The accommodation presents a general security or administrative risk
 - iii. The accommodation would be an undue burden, fundamental alteration or a threat to safety and security at the receiving institution
 - c. Any accessible formats, assistive technology, or reasonable modification determined to be appropriate for a blind inmate at one institution will be provided at any institution where the inmate is housed subject to safety and security concerns.
 - d. Staff will initiate the process of providing accessible formats, assistive technology, health care appliances and other auxiliary aids and services or reasonable modifications previously approved for a blind inmate within five days of the inmate's arrival and upon placement in their assigned housing unit.
 - e. Some accommodations approved at a lower security level institution may be disapproved at a high security level institution due to safety and security concerns.
- B. The inmate, their family members, or any previous health care provider can submit documentation of a prior diagnosis in support of or on behalf of an inmate's or CCAP probationer's/parolee's health care or mental health needs to the Facility ADA Coordinator or DOC ADA Coordinator. The ADA Coordinator will review and consider the information as a part of the disability accommodation process.
- C. In institutions, the facility Medical Practitioner, in consultation with qualified health care practitioners or specialists, and in conjunction with the affected inmate, will diagnose any disability, not previously diagnosed.
 1. A health care provider or health-trained staff member will review the inmate's medical classification code and location code during the intra-system transfer process, and at any time, they identify a change in the inmate's condition to ensure it reflects the inmate's current medical status.
 2. The facility Medical Practitioner will assign a medical code, which indicates if the inmate has an impairment that qualifies as a disability. This determination is based on 42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990*, as Amended and COV §51.5-1 et seq., *The Virginians with Disabilities Act*. Qualifying disabilities include but are not limited to the following:
 - a. Blindness
 - b. Deafness
 - c. Chronic Health Conditions
 - d. Mental Health Conditions
 - e. Intellectual or Developmental Disability
 - f. Autism Spectrum Disorder
 3. After the initial health screening and a comprehensive health appraisal are completed and the findings evaluated, the Health Authority or designee will medically classify the inmate and assign the inmate a medical location code, which indicates the inmate's requirements for physical accommodations and

access to health care services.

4. A medical code will not be written to prevent a disabled inmate from working all prison jobs solely on the basis of their disability.
- D. Physical therapy will be available on or off-site, as appropriate, and will be carried out with the inmate's or CCAP probationer's/parolee's consent, as prescribed by the facility Medical Practitioner.
- E. Health care staff must record all inmate and CCAP probationer/parolee requests for diagnosis of a disability, determinations about an inmate or CCAP probationer/parolee disability, and whether the inmate or CCAP probationer/parolee will receive medical accommodations for the disability the inmate's or CCAP probationer's/parolee's Health Record.
- F. Health care staff must provide the inmate or CCAP probationer/parolee with a copy of the decisions made concerning the disability determination, including but not limited to diagnoses, the reasons for denial or modification of the request, and any reasonable accommodation that will be provided to the inmate or CCAP probationer/parolee.

IX. Accommodation Requests

- A. Inmates and CCAP probationers/parolees may request a reasonable accommodation for their disability by submitting a *Reasonable Accommodation Request* 801_F7 to the Facility ADA Coordinator.
 1. Inmates and CCAP probationers/parolees who have difficulty with communicating, reading, understanding, or writing a *Reasonable Accommodation Request* should contact the Facility ADA Coordinator, their counselor, or other designated staff for assistance.
 2. The Facility ADA Coordinator will maintain a copy of the *Reasonable Accommodation Request* 801_F7 with staff response in the inmate's ADA File and will forward a copy of the *Request* and staff's response to the inmate or CCAP probationer/parolee.
 3. When an inmate or CCAP probationer/parolee submits a *Reasonable Accommodation Request*, the *Request* is first reviewed by the Facility ADA Coordinator, or their designee. The ADA Coordinator, or their designee, may consult with the Facility Unit Head, DOC's ADA Coordinator, or any other relevant individual to fully consider the inmate's request.
 - a. If a *Reasonable Accommodation Request* requires a medical prescription to fulfill, that *Request* may only be granted after consultation with and upon prescription of a Health Care Practitioner.
 - b. The Facility ADA Coordinator should decide on the *Reasonable Accommodation Request* in writing within ten business days, or sooner, by either granting the request, denying the request, requesting further investigation, or granting the request with modification. The Facility ADA Coordinator must give a specific reason when denying or modifying the request.
 4. The DOC ADA Coordinator serves as the final authority on all issues related to inmates and CCAP probationers/parolees with disabilities, including whether to grant, deny, or modify a *Reasonable Accommodation Request*, accessible format, auxiliary aid or service.
 5. When considering whether to grant, deny, or modify a *Reasonable Accommodation Request*, accessible format, auxiliary aid, device, and/or service, the DOC ADA Coordinator may consult with the facility's ADA Coordinator and designee, the Facility Unit Head, any Health Care Practitioner, and DOC's Corrections Operations Administrator.
 - a. If a requested accommodation does not require a medical prescription, the Facility ADA Coordinator may seek guidance from medical staff to determine whether the requested accommodation is medically appropriate for the inmate's disability.
 - b. Medical staff, in making this determination, should consider whether considering the nature and degree of the inmate's disability, the requested accommodation will assist the inmate in performing activities of daily living and accessing DOC programs and services.
 - c. The ultimate authority to approve or deny a request for a non-medical accommodation lies with the



DOC ADA Coordinator.

6. When considering a *Reasonable Accommodation Request*, accessible format, auxiliary aid and/or service, the Facility ADA Coordinator and the DOC ADA Coordinator must consider whether the request poses an undue burden or a risk to the safety and security of the inmate, DOC facility, or any other person.
 7. If a *Reasonable Accommodation Request*, accessible format, auxiliary aid, device, and/or service is denied, staff must state the reasons for the denial in writing to the inmate making the request and must explain whether the requested accommodation poses an undue burden that prevents DOC from granting the request, or if an equally effective alternative accommodation is available. A copy of this denial shall be maintained in the inmate's ADA File.
 8. If a facility Health Care Practitioner determines that a medically prescribed accommodation is necessary, facility health care providers will make provisions to provide for the medical accommodation.
 9. The Facility Unit Head or designee must review all medically prescribed accommodations to address any facility safety and security concerns.
 10. If facility health care providers have safety or security concerns regarding the medical accommodation, they will consult with the Facility Unit Head, Facility ADA Coordinator, and/or DOC ADA Coordinator.
 11. If a medically prescribed accommodation poses an undue burden on the facility or to the safety and security of the inmate, CCAP probationer/parolee, or any other person, the Facility ADA Coordinator must notify a facility health care provider of the safety/security concerns so that the prescribed accommodation can appropriately modified.
- B. Any inmate or CCAP probationer/parolee who believes that because of their disability, they were subject to discrimination or who wishes to appeal any decision made in response to their *Reasonable Accommodation Request* may do so in accordance with Operating Procedure 866.1, *Inmate Grievance Procedure* and Operating Procedure 940.4, *Community Corrections Alternative Program*. The Facility ADA Coordinator must initially review grievances and complaints of this type and should consult with the Facility Unit Head and the DOC ADA Coordinator.

X. Housing Inmates with Disabilities

- A. Staff will use information from the inmate's *Classification Assessment* and their *Cell Compatibility Assessment* to determine appropriate housing and bed assignments for inmates with disabilities; see Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted).
1. Staff will make housing and bed assignments for inmates with disabilities in a manner that provides for the inmate's safety and security. (5-ACI-2C-11; 4-ACRS-6A-04)
 2. Housing used by inmates with disabilities, is designed for their use and provides for integration with other inmates. (5-ACI-2C-11; 4-ACRS-6A-04)
 - a. To the extent feasible and as consistent with safety, security and administrative concerns, staff will assign inmates with disabilities to general population settings.
 - b. Special housing consideration should be given to blind inmates, as follows:
 - i. Staff must consider, subject to safety, security, health, undue burden and fundamental alteration concerns, a blind inmate's preferences in the following areas of housing:
 - (a) The type of bed to which a blind inmate is assigned (top bunk, bottom bunk, single non-bunk bed if available where the inmate is housed, etc.)
 - (b) The location of the blind inmate's bed or cell (front of the housing unit, near the bathrooms, microwave, and other amenities; back of the pod to have more space, top or bottom tier; etc.)
 - (c) The space between the blind inmate's bed and another (where possible, allowing for a wider



- aisle between beds).
 - (d) The proximity to the blind inmate's assigned Qualified Caregiver (at a bed nearby, in the same cell, in a cell nearby, etc.)
 - (e) Whether the blind inmate should be housed in a single cell
 - (f) Whether the blind inmate should be housed in a housing unit with a lower population density
 - ii. Staff will assign inmates who have disabilities that require special health care and services to settings that provide health services appropriate to the inmate's health needs.
 - iii. When necessary, staff should make single occupancy cells available to inmates with severe medical disabilities. (5-ACI-2C-02)
3. Staff should assign inmates with disabilities to the most integrated setting appropriate to the needs of the inmate, unless it is necessary to make an exception. Inmates with disabilities:
- a. Will not be assigned to inappropriate security classifications due to their disability because they require handicap accessible cells or beds.
 - b. Will only be housed in designated medical areas when necessary to provide medical care or treatment.
 - c. Will not be assigned to institutions that do not offer the same programs as the institutions where they would otherwise be housed. Staff must make programs and services accessible to inmates with disabilities who reside in the institution.
 - d. Will not be deprived of visitation with family members by placing them in distant institutions where they would not otherwise be housed; this does not preclude gathering groups of inmates with similar special needs i.e., dialysis, geriatric, deaf and hard of hearing, blind and vision impaired, into one or more institutions where special resources can be provided to meet those needs.

B. Inmates Housed in the Infirmary

- 1. The facility Medical Practitioner may temporarily suspend an inmate's access to one or more programs and services i.e., education, work, religious services, library access, and commissary, based on the inmate's medical condition and level of medical care needed.
- 2. The facility Medical Practitioner will periodically evaluate inmates assigned to the infirmary for long-term care and will determine the appropriate level of access to programs and services.
- 3. The facility Medical Practitioner's determination regarding an inmate's access to programming and services will be by medical order and must be documented in the inmate's Health Record.

XI. Durable Medical Equipment, Disability Aids, and Prostheses

- A. A DOC physician, dentist, or optometrist, when necessary, will order all durable medical equipment in proper working order, supplies, disability aids, prostheses, and orthotics for inmate and CCAP probationer/parolee use if failure to do so will result in any of the following:
- 1. Exclude the inmate or CCAP probationer/parolee from participation in facility services, programs and activities.
 - 2. Deny the inmate or CCAP probationer/parolee the benefits of facility services, programs and activities.
 - 3. Subject the inmate or CCAP probationer/parolee to discrimination.
- B. By order of a DOC Health Care Practitioner, only, will prostheses and orthotics be available.
- C. The DOC determines the style, type, and manufacturer of the device based on the inmate's or CCAP probationer's/parolee's needs, relevant security considerations and applicable operating procedures; see Operating 720.6, *Dental Services*, and Operating Procedure 750.3, *Prostheses*.
- D. Prosthetic and orthotic devices are provided for an inmate or CCAP probationer/parolee if failure to do so will result in deterioration of the inmate's or CCAP probationer's/parolee's health while housed in an institution or CCAP facility.

1. To assure continuity of care, the process of ordering a device must allow enough time to schedule appointment(s), fabricate or purchase, and adjust the device prior to the inmate's or CCAP probationer's/parolee's release.
 2. If there is not enough time until release, the process of ordering the device will be done in a location convenient to the inmate or CCAP probationer/parolee in their post-release community.
- E. Facility medical staff will ensure that inmates and CCAP probationers/parolees who need mobility equipment such as wheelchairs, walkers, canes, crutches, etc., have access to such equipment at release; see Operating Procedure 750.3, *Prostheses*, and Operating Procedure 820.2, *Inmate Re-entry Planning*.

XII. Inmate and CCAP Probationer/Parolee Services and Special Considerations

- A. All facilities will provide accommodations, when necessary, to afford inmates and CCAP probationers/parolees with disabilities access to and the ability to participate fully in the facilities' programs and services to include but not limited to the following: **(5-ACI-2C-11)**
1. Educational Testing and Instruction; see Operating Procedure 601.4, *Educational Testing*, Operating Procedure 601.5, *Academic Programs*, and Operating Procedure 601.6, *Career and Technical Education Programs*.
 2. Recreation; see Operating Procedure 841.6, *Recreation Programs*, and Operating Procedure 841.4, *Restorative Housing Units*.
 3. Telephone Service; see Operating Procedure 803.3, *Inmate and CCAP Probationer/Parolee Telephone Services*.
 4. Visitation; see Operating Procedure 851.1, *Visiting Privileges*, and Operating Procedure 841.4, *Restorative Housing Units*.
 5. Work Programs; see Operating Procedure 841.2, *Inmate Work Programs* **(2-CI-5A-1)**
- B. For blind inmates, and upon request and approval dependent on safety, security, health, and undue burden and fundamental alteration concerns, the Facility Unit Head or designee will place tactile tape in appropriate areas of the facility in which a blind inmate is housed.
1. Staff will place tactile tape in key locations in the housing unit where a blind inmate has requested and been granted tactile tape as a reasonable accommodation.
 2. Staff must make every effort to maintain the condition of the tactile tape and keep it unobstructed for use by blind inmates who use a cane to navigate independently.
- C. The Facility ADA Coordinator in consultation with DOC ADA Coordinator will make the following assistive technology available to blind inmates through DBVI to use in their housing area:
1. Digital Magnifiers
 2. Talking Calculators
 3. Talking or Braille watches
 4. Wired headphones
- D. The Facility Unit Head will provide one SARA Scanners or other equivalent document scanning device in housing units where blind and vision impaired inmates are assigned.
1. Additional document scanners as needed will be made available in the housing unit or in other facility locations.
 2. Document scanners will be reserved for the use of blind inmates.
- E. The Facility ADA Coordinator in consultation with the DOC ADA Coordinator and other staff, as appropriate, will consider a reasonable accommodation for special property items for inmates and CCAP probationers/parolees on a case-by-case basis consistent with the disability being addressed; see



Attachment 2, *Approved Reasonable Accommodations* and Operating Procedure 802.1, *Inmate and CCAP Probationer/Parolee Property*.

- F. Staff should make every effort to communicate with inmates and CCAP probationers/parolees who have a communication disability in a manner that will maximize the inmate's or CCAP probationer's/parolee's ability to comprehend and understand the information; to include:
1. Providing interpreters and other appropriate means for deaf inmates and CCAP probationers/parolee.
 2. Allowing blind inmates to submit a separate sheet of paper with the information required to complete a DOC specific form (handwritten or typed) provided the inmate meets other submission requirements such as timely submitted and contains all necessary information.
 - a. The blind inmate's form will not be denied because the information is provided on a separate attached sheet of paper.
 - b. Blind inmates approved to submit a form with an additional sheet of paper must not be required to request the same accommodation when submitting other forms.
- G. Staff will consider how an inmate's or CCAP probationer's/parolee's disability may affect their understanding of facility procedure when using the disciplinary process; see Operating Procedure 861.1, *Inmate Discipline*, and Operating Procedure 940.4, *Community Corrections Alternative Programs*.
- H. Security Considerations for Institutions
1. Inmates and CCAP probationers/parolee who have a disability, which interferes with their ability to follow normal count procedures, will be reasonably accommodated to provide for the effective performance of count Operating Procedure 410.2, *Count Procedures* (Restricted).
 2. Inmates who have a disability that affects how staff transport the inmate will be accommodated in a manner that provides for safe and secure inmate transportation; see Operating procedure 411.1, *Inmate Transportation* (Restricted).
 3. When an appropriate warning must precede the use of force or a force multiplier, staff must notify inmates with communication disabilities in a manner that the inmate can observe and understand; see Operating Procedure 420.1, *Use of Force* (Restricted).
 4. Inmates who have a disability that affects the application of restraints will be accommodated in a manner deemed appropriate by the facility Medical Practitioner and to ensure the safety of the inmate; see Operating Procedure 420.2, *Use of Restraints and Management of Inmate Behavior* (Restricted)

REFERENCES

28 C.F.R. §35.1-164, *Duties*

42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990*

COV §51.5-1 et seq., *The Virginians with Disabilities Act*

COV §53.1-67.9, *Establishment of community corrections alternative program; supervision upon completion*

Operating Procedure 410.2, *Count Procedures* (Restricted)

Operating procedure 411.1, *Inmate Transportation* (Restricted)

Operating Procedure 420.1, *Use of Force* (Restricted)

Operating Procedure 420.2, *Use of Restraints and Management of Inmate Behavior* (Restricted)

Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted)

Operating Procedure 601.4, *Educational Testing*

Operating Procedure 601.5, *Academic Programs*

Operating Procedure 601.6, *Career and Technical Education Programs*

Operating Procedure 720.1, *Access to Health Services*



Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*

Operating Procedure 720.6, *Dental Services*

Operating Procedure 750.3, *Prostheses*

Operating Procedure 802.1, *Inmate and CCAP Probationer/Parolee Property*

Operating Procedure 803.3, *Inmate and CCAP Probationer/Parolee Telephone Services*[s](#)

Operating Procedure 810.1, *Inmate Reception and Classification*

Operating Procedure 810.2, *Transferred Inmate Receiving and Orientation*

Operating Procedure 820.2, *Inmate Re-entry Planning*

Operating Procedure 841.2, *Inmate Work Programs*

Operating Procedure 841.4, *Restorative Housing Units*

Operating Procedure 841.6, *Recreation Programs*

Operating Procedure 851.1, *Visiting Privileges*

Operating Procedure 861.1, *Inmate Discipline*

Operating Procedure 866.1, *Inmate Grievance Procedure*

Operating Procedure 940.4, *Community Corrections Alternative Programs*

ATTACHMENTS

Attachment 1, *Notice of Rights for Inmates and CCAP Probationers/Parolees with Disabilities*

Attachment 2, *Approved Reasonable Accommodations*

FORM CITATIONS

Reasonable Accommodation Request 801_F7

Declination of Qualified Caregiver 801_F9

Qualified Caregiver Agreement 801_F10