



# Virginia Department of Corrections

## Offender Management and Programs

### Operating Procedure 801.3

#### *Managing Offenders with Disabilities*

**Authority:**

Directive 801, *Facility Administration*

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**Access:**  Public  Restricted

Incarcerated Offender

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5-ACI-5E-03, 5-ACI-6C-06, 5-ACI-7A-01,  
5-ACI-7B-10, 5-ACI-7D-13; 4-4133, 4-4142,  
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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.

*The office of primary responsibility reviewed this operating procedure in September 2020 and determined that no changes are needed.*

### COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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## PURPOSE

This operating procedure provides guidelines for management of and provision of reasonable accommodations to offenders with disabilities housed in Department of Corrections (DOC) facilities. It describes levels of available services, methods by which assignments are made, and appropriate security measures for offenders with disabilities in accordance with the *Americans with Disabilities Act of 1990*, as Amended (42 U.S.C. §12101 et seq.) and the *Virginians with Disabilities Act* (COV §51.5-1 et seq.).

## PROCEDURE

### I. Training and Responsibility

- A. All staff, contract staff, interns, and volunteers who regularly interact with offenders will receive instruction related to the provisions of accommodations for offenders 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, a copy of the certificate must be printed and submitted to unit training staff or the immediate supervisor for units without training staff.
- C. Upon arrival and during formal orientation, all offenders, to include those offenders who are transferred immediately to the infirmary or restorative housing upon intake, will be informed of their right to non-discrimination on the basis of a disability and the process for requesting a reasonable accommodation as outlined in this operating procedure. (See Operating Procedure 810.1, *Offender Reception and Classification*, and Operating Procedure 810.2, *Transferred Offender Receiving and Orientation*.) (5-ACI-3D-04; 4-4277; 4-ACRS-6B-01)
  1. Each offender, upon arrival will be provided a copy of Attachment 1, *Notice of Rights for Offenders with Disabilities*, which includes the DOC ADA Coordinator's contact information.
  2. The facility *Orientation Manual, Packet*, and/or other written orientation materials must include the facility ADA Coordinator's name and contact information.
- D. Information on the nature and extent of an offender's disability and any reasonable accommodations related to the disability is considered protected health information. This information is confidential and will only be disclosed to staff as necessary to provide assistance to the offender or as authorized and/or permitted by the offender.
- E. ADA Coordinator
  1. Staff and offenders have access to the DOC ADA Coordinator and a facility ADA Coordinator. (5-ACI-5E-03; 4-4429-1; 4-ACRS-6A-01-1)
    - a. The DOC ADA Coordinator is an appropriately trained and qualified individual, educated in the problems and challenges faced by offenders with physical and/or mental impairments, programs designed to educate and assist offenders with disabilities, and all legal requirements for the protection of offenders with disabilities.
    - b. The facility ADA Coordinator is trained by the DOC ADA Coordinator in mandated legal requirements regarding disability accommodations.
  2. The DOC ADA Coordinator will serve as the authority on all issues related to offenders with disabilities, reasonable accommodations, and the application of this operating procedure.
  3. The facility ADA Coordinator will review all offender requests for a reasonable accommodation and, in consultation with appropriate staff, make a determination on the request and maintain documentation of the facility accommodation process to include approvals, denials, and appeals.
    - a. The following requirements will be considered when making a determination for an accommodation:
      - i. The disability, as recognized by the ADA, must be known to the DOC.
      - ii. The accommodation must not pose an undue hardship on the facility or to the safety and

security of the offender or any other person.

- b. The facility ADA Coordinator will maintain a current listing of all facility accommodations provided to offenders.
- c. The facility ADA Coordinator will make rounds twice per month to be available to offenders. These rounds should be documented in facility logbooks.

## II. Offenders with Disabilities

- A. Offenders are essentially dependent on the physical conditions of and services provided by the facility.
- B. Facility staff must ensure that an individual with a disability will not be excluded from participation in, or be denied the benefits of, the services, programs, or activities of the facility, or be subjected to discrimination. (5-ACI-3D-04, 5-ACI-5E-02; 4-4277, 4-4429; 4-ACRS-6B-01)
- C. Reasonable accommodations must be made for offenders with disabilities, consistent with and as required by the *Americans with Disabilities Act of 1990, as Amended* (42 U.S.C. §12101 et seq.) and the *Virginians with Disabilities Act* (COV §51.5-1 et seq.)
- D. Such accommodations will allow for participation in services, programs, and activities that may include but not be limited to:
  1. Provision of medical and mental health 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 offender'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. Offenders with disabilities must be provided 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; 4-4144; 4-ACRS-6A-04-2)
  1. Toilet access will be provided for offenders consistent with their medical needs as determined by a facility Medical Practitioner.
  2. Appropriately trained individuals should be assigned to assist offenders who cannot otherwise perform major life activities. (5-ACI-2C-12; 4-4143; 4-ACRS-6A-04-1) Offender helpers should be limited to providing assistance in such matters as ambulation and should not provide personal care such as bathing.
- F. Staff and contract staff are responsible to communicate information, announcements, procedures, and other directions to offenders with communication disabilities in a manner that will maximize the offender's ability to comprehend and understand the information.
  1. When a disability hinders an offender's ability to communicate, facility staff must ensure that the offender is provided with necessary accommodations to assist them during orientation, medical, psychological, educational testing and evaluation, and in explanation of facility rules and procedures.
  2. Offenders with communication disabilities must be made aware of all facility announcements and alerts such as work call, emergencies, school, meals, count, etc.
  3. Offenders with communication disabilities must be provided reasonable accommodations to ensure the offender and health care providers are able to communicate effectively during all scheduled appointments at the facility to include but not limited to review of medical history, medical appointments, follow-up appointments, and treatment sessions.
    - a. When offenders are transported for medical care, facility health care providers will inform the offsite health care provider as far in advance of the offsite appointment as possible that an offender with a communication disability, such as deafness, that requires a qualified interpreter or other auxiliary aids and services will be seeking medical care.
    - b. In the case of an emergency, a facility health care provider will inform offsite medical providers

that an offender 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 the estimated time of arrival.

- c. For all offenders transported for offsite health care, a facility health care provider will ensure that the offender's communication disability and the need for an accommodation is documented on the *Offender Gate Pass* and recorded in the offender's Health Record.
4. A conspicuous notice of any communications disabilities (i.e. hard of hearing, speech impairment, language translation, vision impairment) must be noted on the Health Record of any offender whose disability affects their ability to communicate and an appropriate advisory regarding this disability must be provided to facility staff and designated in VACORIS.

### III. Determination of Disability and Reasonable Accommodations

- A. All offenders receive a medical and mental health screening by a qualified Health Care Provider or health trained staff in accordance with Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*, and the *Nursing Guideline for Medical/Location Codes*.
  1. Offenders must be afforded the opportunity to disclose their present and prior disabilities and needs and request an accommodation(s) for their disability during their medical and mental health screening. The qualified Health Care Provider will:
    - a. Question the offender regarding any previous accommodation(s)
    - b. Discuss modified or additional accommodations as appropriate
    - c. Make appropriate notations in the offender's Health Record.
  2. When an offender arrives at a facility with an approved accommodation, medical equipment or an assistive device that presents any concerns, the Facility Unit Head, in consultation with the facility Medical Practitioner and ADA Coordinator, will make a decision regarding the removal of the item to minimize risk and provide alternate appropriate accommodations.
  3. 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. The facility Medical Practitioner, in consultation with qualified health care practitioners or specialists, and in conjunction with the affected offender, will diagnose any disability, not previously diagnosed.
  1. After the initial medical screening and a comprehensive health appraisal are completed and the findings evaluated, offenders will be medically classified and assigned a location code.
  2. The offender's medical classification code and location code should be reviewed during the intra-system transfer process, and any time a change of the offender's condition is identified to ensure it reflects the current medical status of the offender.
  3. The facility Medical Practitioner will assign a medical/disability code, which indicates if the offender has an impairment that qualifies as a disability (i.e. legally blind, deaf, mobility impaired). This determination is based on the *Americans with Disabilities Act of 1990, as Amended* (42 U.S.C. §12101 et seq.) and *The Virginians with Disabilities Act* (COV §51.5-1 et seq.).
  4. The Health Authority or designee will assign the medical location code, which indicates the offender's requirements for physical accommodations and access to health care services.
- C. After a disability is diagnosed, a qualified health care practitioner or specialist will determine the level of medical accommodation needed and provide appropriate medical treatment as is required by the offender's condition.
  1. The facility Health Care Practitioner (i.e. physician, optometrist, dentist, psychology associate) will make a determination on the specific accommodation provided and will determine the type of auxiliary aid and/or service to be provided, considering the request of the offender with a disability, but the offender's request, although not determinative, is given priority. This information will be recorded in the offender's Health Record.

2. If the medical equipment or assistive device required to address and accommodate an offender's disability poses an undue hardship to the facility or to the safety and security of the offender or any other person, the Facility Unit Head, in collaboration with the Health Care Practitioner, will make a decision regarding an alternate appropriate accommodation.
  - a. Under no circumstances will non-health care providers substitute their judgment for that of a health care provider where an accommodation needed to address a physical or mental disability has been prescribed.
  - b. If there are unclear issues about an accommodation, the DOC ADA Coordinator may discuss with facility staff whether the proposed accommodation poses an undue hardship to the facility or to the safety and security of the offender or any other person prior to a final decision regarding the requested accommodation.
  - c. The DOC ADA Coordinator will resolve the issue if the facility Health Care Practitioner and the Facility Unit Head cannot come to an agreement.
  - d. The DOC ADA Coordinator, as necessary, will provide written documentation to the Facility Unit Head and facility ADA Coordinator regarding the offender's protection under ADA and/or the accommodation to be provided.
- D. Physical therapy will be available on or off-site, as appropriate, and will be carried out, subject to the offender's consent, as prescribed by the facility Medical Practitioner.
- E. All offender requests for diagnosis of a disability, determinations about an offender having a disability, and whether the offender will receive medical accommodations for the disability must be recorded in the offender's Health Record.
- F. A copy of the decisions, including but not limited to diagnoses, regarding the disability determination, the reasons for denial or modification of the request, and reasonable accommodations will be provided to the offender.

#### IV. Offender Requests for Accommodation

- A. Offenders may request a reasonable accommodation for their disability by submitting a [\*Reasonable Accommodation Request\*](#) 801\_F7 to the facility ADA Coordinator. Offenders who have difficulty in communicating, understanding, or writing a *Request* should contact their counselor for assistance.
- B. The facility ADA Coordinator will review the *Request* and, in consultation with appropriate staff, make a determination on the *Request*.
  1. *Reasonable Accommodation Requests* will be acted upon in writing within ten business days, or a shorter time if necessary, by either granting the request, denying it, requesting further investigation, or granting it with modification. A specific reason must be stated if the request is denied or modified.
  2. All *Accommodation Requests* with respect to medical care will be placed in the offender's Health Record with a copy forwarded to the offender and a copy maintained by the facility ADA Coordinator.
  3. *Accommodation Requests* not specifically involving medical care will be maintained by the institutional ADA Coordinator with a copy forwarded to the offender.
- C. If a facility Health Care Practitioner determines that a medically prescribed accommodation is warranted, facility health care providers will make provisions to provide for the medical accommodation.
  1. Medically prescribed accommodations must be reviewed to address any facility safety and security concerns.
  2. If facility health care providers have safety or security concerns regarding the medical accommodation, the facility ADA Coordinator or Facility Unit Head will be consulted.



3. If a medically prescribed accommodation poses an undue hardship on the facility or to the safety and security of the offender 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.

D. In determining whether an offender's disability or accommodation poses an undue hardship to the health or safety of themselves or others, the facility ADA Coordinator must make an individualized assessment based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain:

1. Nature, duration, and severity of the risk
2. Probability that the potential injury will actually occur
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids and services will mitigate the risk

E. Any offender who believes, they were discriminated against because of their disability, or decides to appeal their *Accommodation Requests* may do so in accordance with Operating Procedure 866.1, *Offender Grievance Procedure*. Grievances of this type must be initially reviewed by the facility ADA Coordinator, who should consult with the Facility Unit Head and, ultimately, the DOC ADA Coordinator.

#### V. Housing for Offenders with Disabilities

A. Facility staff will use information from the offender's *Classification Assessment* and the *Cell Compatibility Assessment* to determine appropriate housing and bed assignments for offenders with disabilities in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments (Restricted)*. When necessary, single occupancy cells should be made available for offenders with severe medical disabilities. (5-ACI-2C-02; 4-4133)

B. Offenders with disabilities will be housed in a manner that provides for their safety and security. Housing used by offenders with disabilities, is designed for their use and provides for integration with other offenders. Programs and services will be made accessible to offenders with disabilities who reside in the facility. (5-ACI-2C-11; 4-4142; 4-ACRS-6A-04)

1. To the extent feasible, offenders with disabilities should be placed in general population settings. Offenders with disabilities requiring special health care and services will be placed in settings that provide health services appropriate to the offender's health needs.
2. Offenders with disabilities should be housed in the most integrated setting appropriate to the needs of the individuals, unless it is deemed necessary to make an exception.
  - a. Offenders who require handicap accessible cells or beds will not be placed in inappropriate security classifications due to their disability.
  - b. Offenders with disabilities will only be placed in designated medical areas when necessary to provide medical care or treatment.
  - c. Offenders with disabilities will not be placed in facilities that do not offer the same programs as the facilities where they would otherwise be housed.
  - d. Offenders with disabilities will not be deprived of visitation with family members by placing them in distant facilities where they would not otherwise be housed; this does not preclude gathering groups of offenders with similar special needs (i.e. dialysis, geriatric, deaf and hard of hearing) into one or more locations where special resources can be provided to meet those needs.

C. Offenders Housed in the Infirmary

1. Offenders admitted to the infirmary may have access to one or more programs and services i.e., education, work, religious services, library access, and commissary, temporarily suspended as deemed appropriate by the facility Medical Practitioner based on the offender's medical condition and level of medical care needed.

2. Offenders assigned to the infirmary for long-term care will be periodically evaluated by the facility Medical Practitioner who will determine the appropriate level of access to programs and services.
3. Determinations regarding an offender's access to programming and services will be by medical order and documented in the offender's Health Record.

#### VI. Durable Medical Equipment, Disability Aids, and Prostheses

- A. Durable medical equipment in appropriate working order, supplies, disability aids, and prostheses will be ordered and provided for offender use by the facility Medical Practitioner as necessary to prevent an offender from being excluded from participation in, or denied the benefits of, the services, programs, or activities of the institution, or from being subjected to discrimination by the institution.
- B. Operating Procedure 750.3, *Prostheses*, provides that a prosthesis or orthotic should be made available to an offender if failure to do so will exclude the offender from participation in or deny the offender the benefits of the services, programs or activities of the facility or cause the offender to be subjected to discrimination.
  1. Prostheses or orthotics will be made available only by order of a DOC Health Care Practitioner.
  2. The DOC will determine the style, type, and manufacturer of the device based on the offender's needs and relevant security considerations.
  3. Operating Procedure 720.6, *Dental Services*, provides that a dental prosthesis, subject to co-payment, should be provided for an offender if failure to do so will result in deterioration of the offender's health while incarcerated; all dental prostheses should be ordered by the facility dentist.
- C. Prosthetic (including dental) and orthotic devices, subject to co-payment in accordance with Operating Procedure 720.4, *Co-Payment for Health Care Services*, are provided for an offender if failure to do so will result in deterioration of the offender's health while incarcerated.
  1. In order to assure continuity of care, the process of ordering a device must allow enough time for completion prior to release from incarceration.
  2. If there is not enough time until release, the process of ordering the device will be done in a location convenient to the offender in their post-release community.
- D. Resources will be made available to help offenders with mobility impairments that are being discharged to have access to mobility equipment after their release.

#### VII. Offender Services

- A. Accommodations will be provided to access and fully participate in the programs and services if needed. Information will be communicated to the offender in a manner that will maximize the offender's ability to comprehend and understand the information; including interpreters for deaf offenders and other means as appropriate.
- B. Each facility will make provisions to meet the educational and vocational needs of offenders who require special placement because of physical or mental disabilities. (5-ACI-7B-10; 4-4475)
  1. Offenders will be evaluated for participation in educational programs, on a case-by-case basis, in accordance with Operating Procedure 601.4, *Educational Testing*. Eligibility to participate depends on:
    - a. Offender's ability to perform the curriculum requirements with or without reasonable accommodation
    - b. Satisfaction of procedural requirements for participation in the program
  2. Offenders may request a reasonable accommodation for educational testing and instruction as provided in Operating Procedure 601.4, *Educational Testing*.
  3. Operating Procedure 601.5, *Academic Programs*, and Operating Procedure 601.6, *Career and Technical Education Programs*, provides for reasonable accommodations to be made to ensure that



the testing procedure is not discriminatory to offenders with disabilities based on the disability. Reasonable accommodation includes extended time to complete the test, reading aides, interpreters, and/or tape recorded questions.

- C. Operating Procedure 803.3, *Offender Telephone Service*, provides specific guidance to all offenders for access and use of the telephones. Telephones at wheelchair height and, where needed, special equipment suitable for use by the hearing impaired, including videophones, are provided. (5-ACI-7D-13; 4-4497; 4-ACRS-5A-19)
1. Offenders with hearing and/or speech disabilities, and offenders who wish to communicate with parties who have such disabilities, are afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment.
  2. Public telephones with volume control are also made available to offenders with a hearing impairment.
- D. Offenders with disabilities will be provided the same access to recreation as other offenders in the same housing status as provided in Operating Procedure 841.6, *Recreation Programs*, and Operating Procedure 841.4, *Restorative Housing Units*.
1. Such opportunities for recreation will include, but are not limited to, provision of reasonable accommodations so that disabled offenders may participate in recreational programs to the greatest extent possible.
  2. In addition, disabled offenders may seek and be granted accommodations in scheduling such that they may experience and participate in recreation in a safe environment.
- E. Offenders with disabilities will be provided the same access to visitation as other offenders in the same housing status as provided in Operating Procedure 851.1, *Visiting Privileges*, and Operating Procedure 841.4, *Restorative Housing Units*. Reasonable accommodations will be provided for offenders with disabilities to allow for effective communication with their visitor. The institution will provide auxiliary aids and devices as necessary to allow disabled offenders to communicate effectively with their visitor.
- F. Offenders with disabilities will be reviewed and approved for job assignments in accordance with Operating Procedure 841.2, *Offender Work Programs*. (5-ACI-7A-01; 4-4448; 2-CI-5A-1)
1. Offenders with disabilities, subject to reasonable accommodations with respect to their disability, must meet the requirements and be able to perform the specific job duties and responsibilities provided on the *Offender Work Program Position Description*. Discrimination based on the offender's disability is prohibited. (5-ACI-3D-04; 4-4277; 4-ACRS-6B-01)
  2. Offenders with a disability will be offered accommodations, in order to meet the requirements of the position and to be able to perform the specific job duties and responsibilities, to be considered for the job assignment.
  3. Under no circumstance, will offenders be placed in a job assignment that jeopardizes their safety or security or the safety and security of others.

## VIII. Special Considerations

- A. The Facility Unit Head or a designee in addition to the facility ADA Coordinator will consult with the facility Medical Practitioner or designee prior to taking action regarding chronically ill, physically disabled, geriatric, seriously mentally ill, or developmentally disabled offenders in the following areas: (5-ACI-6C-06; 4-4399)
1. Housing assignments
  2. Program assignment
  3. Disciplinary measures
  4. Transfer to other facilities

5. When immediate action is required, consultation to review the appropriateness of the action occurs as soon as possible, but no later than 72 hours.
- B. Operating Procedure 802.1, *Offender Property*, governs the purchase and possession of offender property items. Offenders with disabilities will be considered on a case-by-case basis for a reasonable accommodation for special property items that are consistent with the disability being addressed.
- C. Offenders with disabilities are subject to Operating Procedure 861.1, *Offender Discipline, Institutions*. Staff should take into account that an offender's disability may affect their understanding of institutional procedure; efforts should be made to communicate with the offender in a manner that will maximize the offender's ability to comprehend and understand the information.
- D. Operating Procedure 410.2, *Count Procedures (Restricted)*, will be followed in order to determine the total number of and location of offenders at all times. Offenders 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.
- E. Operating procedure 411.1, *Offender Transportation (Restricted)*, provides the requirements for the secure transportation of institutional offenders; and these requirements will apply when transporting offenders with disabilities.
  1. Any offender who has a mobility impairment that makes it difficult to enter the secure transport must have use of the lift.
  2. Transport of offenders in wheelchairs:
    - a. Any offender confined to a wheelchair will be transported by a lift-equipped vehicle with the wheelchair properly secured in the vehicle.
    - b. For the convenience and safety of staff and offenders, offenders with limited mobility may be transported in a wheelchair by a lift-equipped vehicle with the wheelchair properly secured in the vehicle.
    - c. Correctional Officers will not lift offenders (either with their wheelchairs or without their wheelchairs).
    - d. Ambulatory offenders may be transported in the same vehicle with offenders in a wheelchair provided seats and safety restraints are available for each offender and the wheelchair is properly secured in the vehicle.
- F. Restraining Offenders with Disabilities
  1. Before restraining an offender who may have a medically documented disability, security staff should consult with a Medical Practitioner (or designee) to determine any restrictions on applying restraints.
  2. Unless there is a medically documented restriction regarding the use of restraints, restraints should be applied to offenders with disabilities taking into account any illness or disability that adversely affects an offender's stability, balance, and/ or coordination in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior (Restricted)*, in the same manner as any other offender.
  3. Restraints should be applied to deaf offenders with handcuffs in front to allow some communication unless there is a significant security issue.
  4. Force multipliers (chemical agents, impact weapons, canines, etc.) may be used on offenders with disabilities if necessary to protect the staff, visitors, and other offenders or to control disruptive behavior. When offender notification is required for the use of a force multiplier, offenders with communication disabilities must be notified in a manner that the offender can observe and understand.
  5. Offenders with disabilities will be restrained as authorized in Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior (Restricted)*.

### G. Use of Force

1. Force may be used on offenders with disabilities in instances of justifiable self-defense, protection of others, protection of property, prevention of escapes, or to maintain or regain control as provided in Operating Procedure 420.1, *Use of Force* (Restricted).
2. When such use must be preceded by the provision of an appropriate warning, this warning must be communicated by means that offenders with communication disabilities can observe and understand.

## DEFINITIONS OF TERMS USED IN THIS OPERATING PROCEDURE

**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 offenders with disabilities and coordination of DOC's efforts to comply.

**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

**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.

**Co-payment** - The amount paid by the offender for health care service, treatment, prosthesis, or orthotic

**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** - An individual whose primary duty is to provide health services in keeping with their respective levels of licensure, health care training, or experience

**Major Life Activities** - 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

**Offender with a Disability** - Any offender who has a physical or mental impairment that substantially limits one or more of their major life activities, has a record of such impairment, or is perceived as having such impairment

**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 non-contagious 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.

**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 Individual with a Disability** - 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 the facility.

**Reasonable Accommodation** - A modification, action, or adjustment that will assist an offender with a disability in the performance of essential functions or that is necessary to prevent an offender 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 hardship to the facility or to the safety and security of the offender, or any other person

**TDD Devices, Videophones, Video Relay Services** - Devices and services that assist hearing impaired offenders to communicate through the Offender Telephone Service

**Undue Hardship** - An accommodation that would be unduly costly, extensive, substantial, or disruptive; undue hardship refers not only to financial difficulty, but to accommodations that would fundamentally alter the nature or operation of the business or work performed by or at the facility or creates a direct threat to the health and safety of others. Undue hardship is an extremely high legal standard to establish for a state agency.

## REFERENCES

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

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

*Nursing Guideline for Medical & Location Codes*

Operating Procedure 410.2, *Count Procedures* (Restricted)

Operating procedure 411.1, *Offender Transportation* (Restricted)

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

Operating Procedure 420.2, *Use of Restraints and Management of Offender 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 720.2, *Medical Screening, Classification, and Levels of Care*

Operating Procedure 720.4, *Co-Payment for Health Care Services*

Operating Procedure 720.6, *Dental Services*

Operating Procedure 750.3, *Prostheses*

Operating Procedure 802.1, *Offender Property*

Operating Procedure 803.3, *Offender Telephone Service*

Operating Procedure 810.1, *Offender Reception and Classification*

Operating Procedure 810.2, *Transferred Offender Receiving and Orientation*

Operating Procedure 841.2, *Offender 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, *Offender Discipline, Institutions*

Operating Procedure 866.1, *Offender Grievance Procedure*

## **ATTACHMENTS**

Attachment 1, *Notice of Rights for Offenders with Disabilities*

## **FORM CITATIONS**

[Reasonable Accommodation Request](#) 801\_F7