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|  | DEPARTMENT OF PUBLIC SAFETY DEPARTMENT ADMINISTRATION POLICY AND PROCEDURES | EFFECTIVE DATE: April 14, 2020 | POLICY NO.: COR.14.27 |
| | | SUPERSEDES (Policy No. & Date): COR.14.21 & 12/12/2009 | |
| SUBJECT: INMATES WITH DISABILITIES | | Page 1 of 21 | |

1.0 PURPOSE

The purpose of this policy is to provide clear and comprehensive guidelines for the federal *Americans with Disabilities Act (ADA)* relevant to any individual with a disability, in the custody of the Department, to ensure equal access to programs, services, or activities. The Department shall not discriminate against any inmate in the custody of the Department based on disability.

2.0 SCOPE

This policy applies to all correctional facilities, PSD staff, contractors, and volunteers. To the extent any individual facility's policy conflicts with the statewide policy, the statewide policy shall control.

3.0 REFERENCES, DEFINITIONS AND FORMS

.1 References

- a. 29 U.S.C. §701 et seq., *Rehabilitation Act of 1973*, Section 504.
- b. Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12134
- c. 28 CFR Part 35, Americans with Disabilities Act of 1990, Title II Regulations, Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services.
- d. 36 CFR part 1191, ADA Accessibility Guidelines for Buildings and Facilities (ADAAG),
- e. 2010 ADA Standards for Accessible Design, Department of Justice, September 15, 2010.
- f. 42 U.S.C. § 1997 et seq., Civil Rights of Institutionalized Persons.
- g. *Pennsylvania Department of Corrections v. Yeskey*, 524 U.S. 206, 210 (1998).
- h. Hawaii Revised Statute (HRS) Chapter 489, Discrimination in Public Accommodations.

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- i. Department of Public Safety (PSD), Policy and Procedures (P & P), COR.01.14, Corrections Mission and Goal.
- j. PSD, P & P, COR.10.1E.02, Receiving Screening for Medical/Mental Health and Dental Health.
- k. PSD, P & P, COR.14.30, Communication Access.
- l. PSD, P & P, COR.12.03, Inmate Grievance Program.

.2 Definitions

- a. ADA (Americans with Disabilities Act): Federal civil rights law prohibiting discrimination based on disability.
- b. Admission/Intake: The process that occurs when an individual is admitted to a correctional facility. All individuals remanded to a PSD Facility shall undergo a thorough screening and assessment at admission and receive an orientation to the institutions/centers procedures, rules, programs and services.
- c. Auxiliary Aids and Services: Aids, devices or services that enables an inmate with a communication disability to have equal access to programs and services. Includes, but is not limited to, qualified interpreters on-site or through video remote interpreting (VRI) services, note takers, real-time computer-aided transcription (CART) services, written materials, exchange of written notes, telephone handset amplifiers, assistive listening devices and systems, telephone compatible with hearing aids, closed caption decoders, open and closed captioning, including real-time captioning, voice, text, and video-based telecommunications products and systems, including text telephones (TTY), videophones, and captioned telephones, qualified readers, taped texts, audio recordings, Braille materials and displays, screen reader software, magnification software, optical readers, large print materials, and other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.
- d. Braille: A system of writing and printing for the visually impaired, in which varied arrangements of raised dots representing letters and numerals can be identified by touch.
- e. Department: the Department of Public Safety.

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- f. Direct threat: A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services.
- g. Disability: With respect to an individual, is a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or is being regarded as having such an impairment. The definition of "disability" shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA.
 - 1. Physical or mental impairment:
 - a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, or endocrine.
 - b) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
 - c) 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; intellectual disability; emotional illness; specific learning disabilities; HIV (whether symptomatic or asymptomatic); tuberculosis; drug addiction, and alcoholism.
 - d) The phrase physical or mental impairment does *not* include homosexuality or bisexuality.
 - 2. Major life activities: Shall include, but are not limited to; caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, reading, communicating, working, interacting with others, and operation of major bodily functions, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological,

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brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive systems.

3. Substantially limits: Shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. "Substantially limits" is not meant to be a demanding standard. The determination of whether an impairment substantially limits a major life activity shall be made without considering corrective measures (e.g. medicine to treat disability, durable medical equipment to assist with mobility limitations), except for the beneficial effects of ordinary eyeglasses or contact lenses.
4. Has a record of such an impairment: Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
5. Is regarded as having an impairment:
 - a) This includes an inmate who:
 - i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;
 - ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
 - iii) Has none of the impairments defined in paragraph (i) of this definition, but is treated by a public entity as having such an impairment.
6. The term disability does *not* include:
 - a) Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;
 - b) Compulsive gambling, kleptomania, or pyromania; and/or
 - c) Psychoactive substance use disorders resulting from current illegal use of drugs.

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- h. **Durable Medical Equipment:** Any single or combination of an orthotic device, mechanical device, dental appliance or hearing aid needed to prevent or treat an illness, injury, condition, disease, or its symptoms, that reduces the effects of impairment and assists a patient in performing their activities of daily living.
- i. **Facility ADA Coordinator (FC):** A Department employee, who is trained on all ADA requirements and who oversees all ADA issues at that facility.
- j. **Fundamental Alteration or Undue Financial and Administrative Burdens:** If the requested reasonable modification or auxiliary aid or service would fundamentally alter a service, program, or activity, or result in undue financial and administrative burdens on the Department, the action is not required. Such decision shall be determined by the Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written response to the inmate's request of the reasons for reaching that conclusion. If the proposed action would result in such a fundamental alteration, the Department shall take any other action that would not result in such an alteration but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the Department.
- k. **Health Care (HC):** Any person who by virtue of their education, credentials and experience is permitted by law to evaluate and care for patients. This includes, but is not necessarily limited to, physicians, nurses, nurse practitioners, dentists, and mental health professionals, employed or contracted by the State
- l. **HIPAA:** Health Insurance Portability and Accountability Act of 1996
- m. **Inmate:** Any person detained in a facility or convicted of a crime and sentenced by the courts to the care and custody of the Department of Public Safety (PSD), for the duration of his/her sentence, including but not limited to probation violators awaiting adjudication of their violation hearings and parole violators.
- n. **Program:** A Department, risk and needs-reducing program either in a correctional facility or in the community. Examples include, but are not

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limited to, Cognitive Self Change, GED, and substance abuse treatment. These may be voluntary or required.

- o. **Qualified Individual with a Disability:** An individual with a disability who, with or without a reasonable modification 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 Department.
- p. **Qualified Interpreter:** an interpreter who, via video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any specialized vocabulary, given the deaf or hard of hearing inmate's language, skills, and education. Qualified interpreters shall be on the list published by the State of Hawaii, Disability and Communication Access Board (DCAB).
- q. **Reasonable Modification:** modification of policies, practices, or procedures, or the manner in which tasks are completed that enables a qualified individual with a disability to participate in and receive the same benefits from a program or service, or the opportunity to receive the same benefit of service, unless to do so would result in a fundamental alteration in the nature of a program or activity, or result in undue financial and administrative burdens on the Department.
- q. **Statewide ADA Corrections Coordinator (SWACC):** A central Department employee, who is trained in all ADA requirements relating to corrections and correctional facilities, who shall be knowledgeable regarding the ADA, and shall be responsible for the implementation of ADA standards and policies and procedures relating to correctional facilities and inmates. The SWACC shall also review all staff decisions made for inmate requests or for auxiliary aids and services and/or reasonable modifications, including those that are modified from the original request, or denied.

.3 Forms

- a. PSD 8772, Notice of Rights for Inmates with Disabilities (attached).
- b. PSD 8773, Request for Accommodation/Modification (attached).
- c. PSD 8774, Accommodation/Modification Status Report (attached).

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- d. PSD 8775, Accommodation/Modification Review Committee – Inmate Notification (attached).
- e. PSD 8776, Inmate Decline of Accommodation/Modification (attached).

4.0 POLICY

- .1 The federal Americans with Disabilities Act (ADA) prohibits State and local entities from discriminating against any qualified individual with a disability in their programs, services, and activities. In order to provide individuals with disabilities participation in services, programs, and activities, the Department shall, among other things:
 - a. Make reasonable modifications to policies, practices, or procedures,
 - b. Remove architectural, communication, or transportation barriers to access, and/or
 - c. Provide auxiliary aids and services.
- .2 In accordance with U.S. Department of Justice, 28 CFR Part 35, Americans with Disabilities Act, Subpart D-Program Accessibility, Section 35.149, the Department shall ensure that no qualified inmate with a disability shall, because a facility is inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, or activities of the Department.
- .3 The Department shall update its transition plan and work towards removing barriers to access for individuals with disabilities.
- .3 The Department shall ensure that inmates with disabilities are housed in the most integrated setting appropriate to the needs of the individual. Unless it is appropriate to make an exception, the Department shall not, based on a disability:
 - a. Place inmates with disabilities in inappropriate security classifications because no accessible cells or beds are available;
 - b. Place inmates with disabilities in designated medical areas unless they are actually receiving medical care or treatment;

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- c. Place inmates with disabilities in facilities that do not offer the same programs as facilities where they would otherwise be housed; and
 - d. Deprive inmates with disabilities of visitation with family members by placing them in distant facilities where they would not otherwise be housed.
- .4 The Department shall implement reasonable policies, including physical modifications to additional cells in accordance with the 2010 Standards, in accordance with 28 CFR § 35.151(k), so to ensure that each inmate with a disability is housed in a cell with the accessible elements necessary to afford the inmate access to safe, appropriate housing.

5.0 PROCEDURES

.1 Identifying Inmates with Disabilities

- a. Reasonable efforts shall be made to identify inmates with disabilities at intake, or as soon as possible after booking.
 - 1. The identification process shall be interactive and include staff observations, inmate reports, and/or documentation of an inmate's disability.
 - 2. Referrals shall be made to health care for evaluation and determination of disabilities.
- b. Where an inmate's disability or need for auxiliary aides and services and/or reasonable modifications is not obvious or apparent, inmates with disabilities who are housed in Department facilities are responsible for making their needs known to staff and/or the Facility ADA Coordinator. Department staff shall immediately refer inmates who are unable to make their accommodation needs known to Health Care and/or the Facility ADA Coordinator for assessment of their needs.
- c. Inmate Screening and Disclosure
 - 1. All inmates shall be notified, during admission/intake, of their rights under ADA, as stated on form PSD 8772, Notice of Rights for Inmates with Disabilities.

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2. The Department shall screen all inmates for barriers to program participation and potential need for auxiliary aides and services and/or reasonable modifications during the following:
 - a) Admission/Intake
 - b) Medical and Mental Health Screenings and appointments.
 - c) RAD Unit
 - d) Reentry Planning
3. Deaf and hard of hearing inmates shall receive additional assessment, within 60 days of RAD intake and annually thereafter, to determine and/or re-assess primary language and communication access needs.
4. In addition to the above screenings, an inmate may request auxiliary aides and services and/or reasonable modifications at any time while in the custody of the Department.
5. In accordance with this policy and federal privacy standards (HIPAA), Department staff who have become aware of an inmate's disability shall not disclose that status to other staff, except as necessary to carry out the guidelines of this policy and/or as required to maintain safety and security.

NOTE: Staff shall not disclose an inmate's disability to other inmates for any reason.

.2 Providing Auxiliary Aides and Services and/or Reasonable Modifications

- a. Requests for auxiliary aides and services and/or reasonable modifications shall receive a case-by-case, individualized review.
- b. Information provided by the inmate, health care, and/or others qualified to evaluate disability and accommodation needs shall be used to identify an auxiliary aides and services and/or reasonable modifications.
- c. The presence of a disability shall be evaluated by the health care administration.

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- d. The need and type of auxiliary aides and services and/or reasonable modifications shall be evaluated by the Facility ADA Coordinator and/or SWACC.
- e. Direct threat concerns shall take precedence when considering any reasonable modification and may result in the temporary or permanent suspension of any modification. In determining whether an individual poses a direct threat to the health or safety of others, the Department must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk. The Department will continue to conduct this individualized assessment throughout the term of the threat to ensure that reasonable modifications are provided when the direct threat ceases to exist.
- f. If the action needed to provide equal access would fundamentally alter a service, program, or activity, or result in undue financial and administrative burdens on the Department, the action is not required. Such decision shall be determined by the Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written response to the inmate's request of the reasons for reaching that conclusion. If the proposed action would result in such a fundamental alteration, the Department shall take any other action that would not result in such an alteration but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the Department.
- g. AMSRs shall be valid for a maximum of one year unless specified by the AMRC.
- h. Inmates have the option to decline any auxiliary aides and services and/or reasonable modifications approved/offered.
- i. If an inmate declines any auxiliary aides and services and/or reasonable modifications approved/offered, the inmate must complete and sign form PSD 8776, Inmate Decline of Accommodation/Modification.

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.3 Process for Requesting Auxiliary Aides and Services and/or Reasonable Modifications

- a. The inmate shall complete form PSD 8773, Request for Accommodation/Modification and place it in the facility designated box/area.
- b. The Facility ADA Coordinator shall pick up requests, at a minimum frequency of every three (3) working days.
- c. If the Request is for durable medical equipment (DME), the Facility ADA Coordinator will check the box "Submit a Medical Request Form", sign, date, and return the Request to the inmate. The procedures for issuance of DME shall be in accordance with PSD COR 10.1G.10, Durable Medical Equipment.
- d. The Facility ADA Coordinator shall document receipt of all ADA Accommodation/Modification Request, covered within this policy, and forward the Request to the Health Care Administration within three (3) working days.
- e. Review the completed form PSD 8773, Request for Accommodation/Modification to determine if an accommodation/modification may be necessary.
- f. Consult with HC, other staff and the inmate as deemed necessary.
- g. Within 10 working days of receiving the request, the Health Care Administration or its designee, shall determine if a disability exists and complete Section II, form PSD 8773, Request for Accommodation/Modification, and return the Request to the Facility ADA Coordinator.
- h. The Facility ADA Coordinator shall complete form PSD 8774, Accommodation/Modification Status Report (AMSR) and submit form to the Chief of Security/Captain for security considerations, recommendations and approval.
- i. The Chief of Security and/or Captain shall review and sign all PSD 8774, Accommodation/Modification Status Report (AMSR) forms.

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- j. The Facility ADA Coordinator shall, within 10 working days of receiving the request from Health Care, submit the completed form PSD 8774 Accommodation/Modification Status Report and any additional documents to the Statewide ADA Corrections Coordinator.
- k. The Statewide ADA Corrections Coordinator shall review all Request for Accommodation/Modification form PSD 8773 Accommodation/Modification Status Report and form PSD 8774 Accommodation/Modification Status Report for submission to the Accommodation/ Modification Review Committee.
- l. The Statewide ADA Corrections Coordinator shall schedule and chair monthly Accommodation/Modification Review Committee (AMRC) meetings, which shall review and approve, modify, or deny AMSRs.
 - 1. The SWACC may temporarily approve, in time sensitive situations, an AMSR until the AMRC can consider it for approval.
 - 2. The AMRC shall include:
 - a) Facility ADA Coordinators,
 - b) A health care representative, if appropriate and requested by the SWACC,
 - c) Program employee/contract staff if an AMSR shall affect his/her program or activity, and
 - d) Chief of Security/designee when an AMSR shall be considered for his/her facility and s/he does not approve of the AMSR for security reasons.
- m. Direct threat and/or legitimate safety concerns that cannot be resolved shall be referred to the Institutions Division Administrator for review. The Deputy Director of Corrections or its designee shall make the final determination as to whether a request must be denied due to a fundamental alteration or undue financial or administrative burden.
- n. The Statewide ADA Corrections Coordinator shall document all AMRC decisions on form PSD 8774, Accommodations/Modification Status Report,

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and form PSD 8775, Accommodation/Modification Review Committee – Inmate Notification.

- o. The Statewide ADA Corrections Coordinator shall disperse copies as required.

.4 Facility/Program Placement

PSD shall ensure that the policies, practices, and procedures in its facilities shall be conducted in a fair and equitable manner, and that there shall be no unlawful discrimination against inmates. PSD shall ensure that qualified inmates with disabilities have equal access to services, activities, programs and/or employment.

- a. Inmates with disabilities shall be placed in facilities consistent with their health, safety, and security requirements. Housing for inmates with disabilities shall be accessible and allow for interaction with other inmates.
 - 1. Inmates with disabilities shall not be precluded from placement in a minimum security facility or furlough program based on their disability.
 - 2. Programs and services shall be available and accessible to inmates residing in a facility.
- b. Inmates with disabilities shall receive education, equipment, and support necessary to perform self-care and personal hygiene.
- c. Inmates with disabilities shall be allowed the opportunity to participate in programs, including work and educational programs and furlough. Inmates shall be provided equal access and must be able to perform the essential functions of the work or program assignment.
- d. Appropriately trained individuals shall be assigned to provide assistance to inmates with disabilities who are unable to perform activities of daily living.
- e. Staff shall remove all architectural, communication, and transportation barriers to access and provide auxiliary aids and services as outlined in PSD, P & P, COR.14.30 Communication Access and PSD, P & P, COR.10.1G.10 Assistive Devices and Aids to Impairment.

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.5 Roles and Responsibilities

All staff, contractors and volunteers have responsibilities at various points in an inmate's incarceration to ensure non-discrimination.

- a. Providing reasonable modifications for a disability is always evaluated in the context of it not being an undue financial or administrative burden on the Department, a legitimate safety or security requirement or direct threat, or it not resulting in a fundamental alteration in the nature of the program or activity.
- b. All staff/contractors have several ADA-related responsibilities regarding inmates in custody, not only upon admission but throughout the inmate's custody as needed. These include:
 1. Notifying inmates of their rights under the ADA;
 2. Making reasonable efforts to identify inmates with disabilities;
 3. If a disability is apparent or the inmate requests an accommodation for due to a disability, staff shall provide the inmate with form PSD 8773, Request for Accommodation/Modification, instruct the inmate to submit the completed request in the designated area, and immediately notify the Facility ADA Coordinator.
 4. If the inmate did previously request an accommodation from another staff member, staff shall follow up on the inmate's request by contacting the Facility ADA Coordinator.
 5. All prescriptive, program or re-entry plans shall consider any accommodations/modifications granted, and/or needed in order to appropriately access required programs and services.
 6. Staff shall provide for immediate accommodations/modifications when necessary and within their ability and authority during the Request for Accommodation/Modification process.
 7. Any questions staff have regarding requests for accommodation shall be referred to the Facility ADA Coordinator for clarification and resolution.

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8. During release planning, case management staff shall notify the Hawaii Paroling Authority, assigned pre-parole officer, and/or assigned probation officer of any ADA accommodation/modification that has been approved for the inmate during incarceration.
- c. Health Care (HC):
1. At any intake health care assessment, HC shall screen for a disability and provide the inmate with form PSD 8772, Notice of Rights for Inmates with Disabilities.
 2. If an inmate has difficulty understanding the forms, HC shall explain the forms to assist the inmate to understand the information.
 3. The determination of the existence of a disability or need for durable medical equipment shall be evaluated and determined by health care.
 4. Health care shall issue durable medical equipment in accordance with its medical assessment.
 5. HC shall respond to all requests for accommodation made verbally by giving the inmate form PSD 8773, Request for Accommodation/Modification, and instruct the inmate to submit the completed request in the designated area.
- d. Facility ADA Coordinator(s):
1. The Facility ADA Coordinator(s) shall be trained in the requirements of this policy and those ADA requirements that are relevant to the Facility ADA Coordinator's duties. Duties shall include, but not limited to, the following:
 - a) Review proposed and existing Department policies, administrative directives, and procedures that are relevant to that site to assess site compliance with Department ADA guidelines; provide recommendations to the facility Warden and Statewide ADA Corrections Coordinator, if applicable; and if necessary, recommend actions to achieve compliance.
 - b) Review and process all PSD 8773, Request for Accommodation/Modification Forms.

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- c) Determine the need for the requested accommodation/ modification and/or an appropriate alternate if appropriate.
- d) Complete PSD 8774, Accommodation/Modification Status Report Forms for the purposes of documenting and making recommendations to the Accommodation/Modification Review Committee. This may require;
 - i) A dialogue with the inmates regarding their need;
 - ii) Recommending provisions for an accommodation;
 - iii) Ensuring an evaluation by appropriate experts;
 - iv) Facilitating transfers to appropriate facilities or housing units; and
 - v) Obtaining ADA required auxiliary aids or services if necessary and consistent with the professional evaluation of the disability.
- e) Ensure that documentation (PSD 8773, Request for Accommodation/Modification, PSD 8774, Accommodation/Modification Status Report, and PSD 8775, Accommodation/Modification Review Committee – Inmate Notification), on accommodation is maintained in the inmate’s file.
- f) In the facility, ensure that PSD 8775 Accommodation/Modification Review Committee – Inmate Notification Form, is maintained in the inmate’s living unit, and in the case of a transport or transfer, sent with the inmate.
- g) Notify appropriate staff of the approved accommodation/modification and advise staff of any procedures needing modification.
- h) Ensure that adequate copies of form PSD 8772, Notice of Rights for Inmates with Disabilities are posted in each facility housing unit, inmate law library, education program, any other staff and

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inmate common areas. Ensure that staff know how to access copies of both forms PSD 8772 and PSD 8773.

- i) Submit reports to the Statewide ADA Corrections Coordinator and attend meetings for Facility ADA Coordinators as required.
 - j) Respond to staff questions about an inmate's request for accommodation or modification.
 - k) In the event that the request is denied or modified, or the inmate is dissatisfied with the response, the Facility ADA Coordinator shall notify the inmate of his/her right to file a grievance.
 - l) Review all ADA related grievances and collaborate with staff, as necessary, to resolve the related issues.
 - m) Assist in the review, revision and/or implementation of ADA self-evaluations and transition plans.
- e. Chief of Security/Captain and/or designee:
- 1. Shall review all PSD 8774, Accommodation/Modification Status Report forms to ensure that any/all accommodations/modifications are in accordance to providing for the safety and security of the facility, staff, volunteers, contractors and visitors.
 - 2. Shall work with the Facility ADA Coordinator and the Statewide ADA Corrections Coordinator, as needed, to provide for accommodations/modifications allowing inmates with disabilities equal access to programs, services and activities.
 - 3. Shall attend Accommodation/Modification Review Committee Meetings upon a "Not Recommended" accommodation/modification determination.
- f. Wardens and Administrators
- 1. Shall ensure that no individual is denied access to programs, services, or activities based on a disability.

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2. Each facility Warden shall appoint corrections staff to act as the site's Facility ADA Coordinator(s) and notify the Statewide ADA Corrections Coordinator which staff shall be serving in that role.
 3. Shall ensure that all construction and/or physical design projects are in compliance with Federal ADA regulations. All Capital Improvement Projects (CIP) submitted for the purposes of ADA compliance improvements shall state such on the CIP request.
 4. Shall submit, to the Statewide ADA Corrections Coordinator, an updated annual plan on the status of ADA compliance. This shall include, but it not limited to; physical barrier removal, construction projects, number of accommodation requests, number of accommodations granted, and type of accommodations granted.
 5. Shall ensure that a secure and easily accessible location and process is in place for inmates to submit form PSD 8773, Request for Accommodation/Modification.
- g. Statewide ADA Corrections Coordinator (SWACC)
1. The SWACC shall report to the Director or his/her designee.
 2. The SWACC shall be knowledgeable regarding the ADA and shall oversee the implementation of statewide ADA standards, policies and procedures, self-evaluations, and transition plans.
 3. The SWACC shall oversee departmental self-evaluations and transition plans that review and revise, as needed, access, services, policies and practices necessary to achieve and maintain compliance with the requirements of ADA.
 4. The ADA Coordinator's duties shall include, but not be limited to, the following:
 - a) Analyze the Department's statewide policies, administrative directives, and procedures; analyze local procedures; and recommend changes, if necessary, to assist in compliance with the ADA,
 - b) Oversee the Accommodation/Modification Review Committee,

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- c) Oversee Facility ADA Coordinators and any other designee,
- d) Coordinate with the Department's Volunteer Services Coordinator and Training Staff Development Administrator and others, as necessary, to ensure that training on, and the provision of auxiliary aides and services and/or reasonable modifications for, qualified inmates with disabilities are consistent with safety and security,
- e) Provide assistance to staff, including the Facility ADA Coordinators, on all inmate/facility ADA related issues,
- f) Assist the Inmate Classification Office (ICO), as necessary, to enable qualified inmates with disabilities to be placed in facilities appropriate for particular disabilities, consistent with safety and security,
- h) Enter ADA auxiliary aides and services and/or reasonable modification approvals in PSD's inmate management system, as deemed appropriate for record keeping.
- i) As related to ADA, review inmate grievances as necessary and appropriate, and
- j) Implement procedures to ensure documentation and tracking of ADA related accommodations and grievances.

5. Implement procedures to ensure documentation and tracking of all Requests for Accommodation/Modification and related grievances.

.5 Denial of Request for Accommodation/Modification

- a. A Request for Accommodation/Modification may be denied for any of the following reasons:
 - 1. The accommodation poses a direct threat or legitimate safety concern to the facility, staff, other inmates or the public.
 - 2. The accommodation alters the fundamental nature of the program, activity or service.

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3. The accommodation can be modified through an alternate method with equally effective access to the program, activity or service.

.6 Notification to Inmates

- a. Form PSD 8772, Notice of Rights for Inmates with Disabilities, shall be clearly displayed in common areas accessible to inmates in all facilities.
- b. Staff shall also utilize appropriate notification methods (e.g., a verbal description) and effective communication (including auxiliary aids or services) as necessary.
- c. In addition, form PSD 8772, Notice of Rights for Inmates with Disabilities, and form PSD 8773, Request for Accommodation/Modification, shall be discussed with each inmate as indicated in Section 5.1.c.1 of this policy.

.7 ADA Grievance Procedure

Inmates who believe they have been discriminated against, disagree with an accommodation/modification, or a denial of a request shall be provided an opportunity to submit a grievance in accordance with the procedures outlined in PSD, P & P, COR.12.03, Inmate Grievance Program.

Accommodations/modifications shall be provided to inmates with qualifying disabilities to ensure equal access to the grievance process.

.8 Training

- a. It is the policy of PSD to uphold a high standard of job performance, proficiency and professionalism among its employees.
- b. All Department staff, volunteers, and contractors with contact with inmates shall complete the required ADA training course.
- c. Staff shall complete additional ADA training as deemed necessary.

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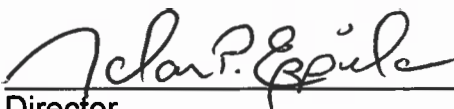
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APPROVAL RECOMMENDED:


 Deputy Director for Corrections

April 14, 2020
 Date

APPROVED:


 Director

April 14, 2020
 Date



DEPARTMENT OF PUBLIC SAFETY

NOTICE OF RIGHTS FOR INMATES WITH DISABILITIES



The Right to Auxiliary Aids and Services and/or Reasonable Modifications

The Hawaii Department of Public Safety (HDPS) is committed to providing individuals with disabilities equal opportunity to access its services, programs, and activities, in accordance with its obligations under the Americans with Disabilities Act (ADA). If you have a disability, you have the right to request auxiliary aids or services or reasonable modifications in order to have equal access to HDPS programs, services, and activities. To comply with the ADA, HDPS will, among other things:

1. Make reasonable modifications in policies, practices, and/or procedures,
2. Remove barriers to access HDPS programs, services, and activities, and/or
3. Provide auxiliary aids and services.

HDPS does not need to provide reasonable modifications or auxiliary aids or services that HDPS can demonstrate would fundamentally alter the nature of its services, programs or activities.

How to Request a Modification or Accommodation

If you want or need a reasonable modification or auxiliary aids or services, ask your case manager, the Facility ADA Coordinator, or any staff member for a request form to fill out (*Form PSD 8773, Request for Accommodation/Modification*). If you need help filling out the form, you may ask a staff member to assist you.

How to File a Grievance

You have the right to file a grievance related to disability discrimination, including if you are denied a request for reasonable modification or auxiliary aids or services, in accordance with the HDPS ADA Grievance Procedure. The Statewide ADA Corrections Coordinator Jason Kim and/or your ADA Facility Coordinator [Insert Name] will review your grievance and respond accordingly.

FACILITY ADA COORDINATOR:

[Insert Name]



DEPARTMENT OF PUBLIC SAFETY

REQUEST FOR ACCOMMODATION/MODIFICATION

(for wheelchairs, canes, walkers, etc., submit a Medical Request Form)



I. REQUEST

Inmate Name: (please print) SID#:

Facility & Housing Unit:

Auxiliary Aid or Service/Modification Requested/Needed: (Answer the following questions)

1. What auxiliary aid or service/modification do you think you need?

Blank lines for answer to question 1

2. Why do you think this will help you?

Blank lines for answer to question 2

Inmate Signature Date

If Request was verbal: (check) Print name of Individual who wrote request:

Facility ADA Coordinator Signature Date

Forward to:

II. HEALTH CARE ADMINISTRATION

A disability exists relating to the above request (check one): Yes No

Comments:

Submit Medical Request Memo

Completed By: (Print Name) (Signature) Date:

Forwarded to Facility ADA Coordinator

cc: Facility ADA Coordinator, Statewide ADA Corrections Coordinator



DEPARTMENT OF PUBLIC SAFETY
**ACCOMMODATION/MODIFICATION
STATUS REPORT**



Inmate Name: (please print)

SID#:

Facility & Housing Unit:

Recommended Accommodation/Modification

- | | |
|---|--|
| <input type="checkbox"/> Accessible Cell (Grab bars; Wheelchair Room) (describe in comments) | <input type="checkbox"/> Large Print |
| <input type="checkbox"/> Extra Time for Showering | <input type="checkbox"/> Printed Electronic Materials |
| <input type="checkbox"/> Sign Language Interpreter | <input type="checkbox"/> Assistance Reading Documents |
| <input type="checkbox"/> CC TV (captioning) | <input type="checkbox"/> TTY Phone Access |
| <input type="checkbox"/> FM System | <input type="checkbox"/> Modification of Policies or Procedures (explain in comments) |
| <input type="checkbox"/> Other (explain in comments) | |

Comments

Expiration date:

ADA Coordinator who is making submission

Date

Chief of Security/designee Recommendation

- Recommended Not Recommended – Reason:

Printed Name and Signature

Date

Warden Signature:

Date:

Approved Not Approved by the Accommodation Review Committee on _____

DISTRIBUTION: **Original** – Facility ADA Coordinator **Copy** –Statewide ADA Corrections Coordinator



DEPARTMENT OF PUBLIC SAFETY
**ACCOMMODATION/MODIFICATION REVIEW
 COMMITTEE –
 INMATE NOTIFICATION**



Date:

Accommodation/Modification request for _____
 was reviewed by the Accommodation/Modification Review Committee on _____
 and was:

Approved – See Comments.

Not approved – See Comments.

Deferred at this time – See Comments.

Comments:

STATEWIDE ADA CORRECTIONS COORDINATOR

Date:

Distribution: ORIGINAL – Inmate COPY – Inmate File, Facility ADA Coordinator, Statewide ADA Corrections
 Coordinator, Program Administrator (if listed or appropriate)



DEPARTMENT OF PUBLIC SAFETY
**INMATE DECLINE OF
 ACCOMMODATION/MODIFICATION**



| | |
|---|--------------|
| Inmate Name: <i>(please print)</i> | SID#: |
|---|--------------|

Facility & Housing Unit:

I acknowledge the accommodations/ modifications approved on PSD 8775, Accommodation/ Modification Review Committee – Inmate Notification dated _____.

I understand that these accommodations/modifications have been approved for me in order to have equal access to inmate programs, services and activities.

I understand that declining these accommodations/modifications may negatively impact my ability to participate in inmate programs, services and activities and may delay my consideration for release onto parole or other.

I understand that if I change my mind and want or need future accommodations/modifications, I must submit a PSD 8773, Request for Accommodation/Modification.

I decline the approved accommodations/modifications for the following program, service or activity: _____

Comments:

| | |
|------------------|-------|
| Inmate Signature | Date: |
| Staff Signature | Date: |

Distribution: ORIGINAL – Inmate COPY – Inmate File, Facility ADA Coordinator, Statewide ADA Corrections Coordinator, Program Administrator (if listed or appropriate)