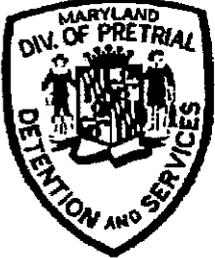


STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF PRETRIAL DETENTION AND SERVICES

	Pretrial Detention and Services Directive Number: 185-6
	Program: Residents
	Title: Accommodations for Arrestees/Residents with Disabilities
	Effective Date: August 1, 2007
	Approved by: Howard Ray, Jr., Acting Commissioner

.01 Purpose.

To establish a policy and procedures ensuring that, upon request, persons who qualify under the Americans With Disabilities Act are afforded reasonable accommodations while in the custody of/detained by the Division.

.02 Scope.

The Division of Pretrial Detention and Services

.03 Policy.

It is the policy of the Division of Pretrial Detention and Services that, upon request/agreement from a qualified individual, reasonable accommodations shall be made to provide equal access to programs, services and activities for arrestees and residents with disabilities.

In the provision of reasonable accommodations, the safety and security of persons and of the facility shall be properly considered.

.04 Authority/Reference.

- (A) Title II of the Americans With Disabilities Act; §504
- (B) MCCS .05A
- (C) ADA 4-ALDF-6B-03
- (D) PDSD# 180-1, Resident Grievance Process

.05 Definitions.

The Americans With Disabilities Act (ADA) – A comprehensive civil rights law for people with disabilities. The Act prohibits a public entity from discriminating against a qualified individual with a disability, because of that individual's disability. State government is required to give a disabled individual equal opportunity to benefit from all programs, services, and activities.

Auxiliary Aid – A service or device to ensure that communications with individuals who have hearing, vision or speech impairments are as effective as communication with others (e.g. qualified interpreters, brailled materials, telecommunications devices for deaf persons [T.T.D.] taped text.)

Disabled Individual – A person who has a physical or mental impairment that substantially limits a major life activity (caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.)

Qualified Individual – A person who meets the eligibility requirements for the program, activity or service being offered

.06 Responsibility/Procedure.

A. The warden or designee shall be responsible to ensure that:

1. All reasonable accommodations are made to provide equal access to programs, services and activities to those arrestees/ residents who are disabled individuals;
2. Written guidelines are provided to designated staff regarding appropriate accommodations. General accommodations include, but are not limited to:
 - a. Hearing and/or Speaking Impairment - Provisions for auxiliary aids to allow the arrestee/resident to communicate with Division staff, legal representatives, Court personnel, family and other persons in interest;
 - b. Mobility and/or Visual Impairment - Special housing needs as determined by qualified Health Care personnel and appropriate bed assignments as implemented by the shift supervisor/ designee, as well as provisions for auxiliary aids to allow the arrestee/resident to communicate with Division staff, legal representatives, Court personnel, family and other persons in interest;
 - c. Cognitive Disability - Special housing needs as determined by qualified Health Care personnel and appropriate bed assignments as implemented by the shift supervisor/ designee.

B. Staff Training

The Training Unit Director/Supervisor shall document the inclusion of this directive in all pre/in-service training provided to employees and volunteers of the Division.

C. Resident Orientation

Orientation materials (e.g. Resident Handbook) and presentations (e.g. videos) shall describe the process for requesting accommodations. (Section F. of this directive.) These materials shall also be made available in a format for the visual and hearing impaired. The staff person providing orientation shall refer the name of any resident requesting accommodations to the Director of Population Management/ Classification.

D. Medical/ Mental Health Recommendation

1. Qualified Health Care Personnel, upon referral or upon routine examination, shall note in the medical record the individual disability and the major life activity that is limited and that this arrestee/resident has requested or has agreed to accept accommodations related to DPDS programs, services or activities.
2. Appropriate recommendations shall be made to the shift supervisor/designee and the Director of Classification in the areas of housing, auxiliary aids, durable medical equipment, etc. utilizing the appropriate form (e.g. Transfer of Housing Assignment, Medical Clearance Program and Work Adjustment) or other written communication.
3. Instructions shall be communicated directly to the shift supervisor/designee whenever immediate action is required to ensure the health and/or safety of an arrestee/resident who is a disabled individual.
4. If a non-urgent accommodation cannot be addressed as described in section VI.D. 2 or 3 of this directive, then the qualified Health Care personnel shall write a referral and forward it to the facility administrator prior to the end of the shift.

E. Offering Accommodations

1. Staff should not assume that an accommodation is needed. However, there are times, especially prior to resident orientation, when it is appropriate to directly ask if the individual wants help and can state the type of help they want. These conversations should be discrete and not attract the attention of other arrestees or residents.
2. Auxiliary aids or other accommodations may be offered, but not imposed.
3. At no time shall another arrestee/resident be directed to provide assistance or accommodations to a disabled individual.
4. Requested/accepted accommodations that cannot be provided, for whatever reason, shall be documented in a Logbook and reported in a Matter of Record to be submitted prior to the end of the shift.

F. Request for Accommodation/Action

Any person detained by, or committed to, the Division may request accommodations, when the person believes he/she is denied equal access to services, program or activities because he/she is a qualified individual.

1. Informal requests may be made directly to any DPDS employee with whom the arrestee/resident has contact.
 - a. The employee may take immediate action to comply with the request, if the request is reasonable and it is within his or her authority to do so (e.g. assist in the completion of a form or the dialing of a telephone.) Such action shall be taken in a discrete manner that is not obvious to other arrestees/ residents and shall be documented in a Log Book and with a Matter of Record.

- b. If an informal request cannot be resolved due to lack of authority, information or resources, or if it does not appear reasonable, the pending request shall be documented in a Log Book and in a Matter of Record, to be completed and forwarded prior to the end of the shift.
 - c. At no time shall another arrestee/resident be directed to provide assistance or accommodations to a disabled individual.
2. Formal requests for accommodation may be made through the procedures described in PDSD# 180-1, entitled Resident Grievance Process. The resident must identify his/her specific disability(s) and the specific accommodation or service the resident seeks.

G. Administrative Response

1. The supervisor, upon notification that accommodations could not be provided pursuant to an informal request, shall review the request and either take appropriate action to provide the accommodation, or forward a Matter of Record to the facility administrator/warden's designee by the end of the shift.
2. The Resident Grievance officer, upon receipt of a formal request for accommodations related to an ADA-qualifying disability, shall process the complaint in compliance with PDSD #180-1, entitled Resident Grievance Process. First attempts at resolution shall be referred to the facility administrator/warden's designee as the person best suited to accommodate the request.
3. The facility administrator/warden's designee, upon notification of a formal informal request, shall take/document appropriate action to ensure equal access to services, activities and programs. If an accommodation cannot be provided due to lack of information or resources, or if it does not appear reasonable, a Matter of Record shall be forwarded to the warden by the following workday.
4. The warden, upon notification from the facility administrator/ warden's designee that a request is pending further review shall:
 - a. Meet with the arrestee/resident and/or consult with the Qualified Health Care Personnel and any other person in interest for further information pertaining to appropriate accommodations for the particular disability;
 - b. Make and document a final determination upon the reasonableness of the request and authorize corrective action as required; and
 - c. Notify the arrestee/resident in writing, or in another format if necessary for the individual to understand, within 2 working days that a final determination was made. Included shall be a summary of any resolution proposed, and/or a statement of issues that could not be resolved.

.07 Attachments. None

.08 History. Rescinds PDSD #185-6 , Accommodations for Arrestees/Residents with Disabilities (11-30-04)

09 Distribution. C