



Operating Procedure

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Amended	Operating Level Department
Supersedes First Issue	
Authority COV §51.5-1 et seq., §53.1-10, §53.1-32 42 U.S.C §1231 et seq., 42 U.S.C.A. §12101 et seq.; 28 C.F.R. Part 35	
ACA/PREA Standards 4-4133, 4-4142, 4-4143, 4-4144, 4-4277, 4-4399, 4-4429, 4-4429-1, 4-4448, 4-4475, 4-4497; 4-ACRS-5A-19, 4-ACRS-6A-01-1, 4-ACRS-6A-04, 4-ACRS-6A-04-1, 4-ACRS-6A-04-2, 4-ACRS-6B-01	
Incarcerated Offender Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	FOIA Exempt Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Attachments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Office of Primary Responsibility ADA Coordinator	

Subject
MANAGING OFFENDERS WITH DISABILITIES

I. PURPOSE

This operating procedure provides guidelines for management of and provision of reasonable accommodations to offenders with disabilities housed in Department of Corrections 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 §1231 et seq., 42 U.S.C.A. §12101 et seq.) and the *Virginians with Disabilities Act* (COV §53.1-1 et seq.).

II. COMPLIANCE

This operating procedure applies to all facilities operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

Major Life Activities - Include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working

Medical Practitioner - A physician, physician's assistant, or nurse practitioner licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

Mobility-impaired - Unable to move about without the aid of crutches, a wheelchair, 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 or who has a record of such impairment

Physical Impairment - Any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness

Reasonable Accommodation - A modification, action, or provision that will assist an offender with a disability in the performance of essential functions without causing an undue hardship to the facility or compromise the health and safety of offenders, visitors, or staff

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.

IV. PROCEDURE

A. Determination of Disability

1. Incoming offenders are screened and appraised in accordance with Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*, and the Standard Treatment Guideline for *Medical/Location Codes*.
 - a. 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.
 - b. 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.
2. The medical code shall be assigned by a physician and 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 §1231 et seq., 42 U.S.C.A. §12101 et seq.) and *The Virginians with Disabilities Act* (COV §53.1-1 et seq.).
3. The location code shall be assigned by the Health Authority or designee and indicates the offender's requirements for physical accommodations and access to health care services.

B. Housing for Offenders with Disabilities

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, the DOC
 - a. Shall not place offenders with disabilities in inappropriate security classifications because no handicap accessible cells or beds are available
 - b. Shall not place offenders with disabilities in designated medical areas unless they are actually receiving medical care or treatment
 - c. Shall not place offenders with disabilities in facilities that do not offer the same programs as the facilities where they would otherwise be housed
 - d. Shall not deprive offenders with disabilities 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.
3. Offenders with disabilities are 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 are accessible to offenders with disabilities who reside in the facility. (4-4142, 4-ACRS-6A-04)
4. There is a consultation between the Facility Unit Head (or a designee) and the responsible 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: (4-4399)
 - a. Housing assignments
 - b. Program assignment
 - c. Disciplinary measures
 - d. Transfer to other facilities
 - e. When immediate action is required, consultation to review the appropriateness of the action occurs as soon as possible, but no later than 72 hours.

5. When necessary, single occupancy cells should be made available for offenders with severe medical disabilities. (4-4133)
6. The DOC should make reasonable accommodation to ensure that sufficient spaces are available to ensure that each offender with a disability is housed in an area with the accessible elements necessary to afford the offender access to safe, appropriate housing.

C. Reasonable Accommodations for Offenders with Disabilities

1. Offenders are essentially dependent on the physical conditions of and services provided by their facilities.
 - a. The Facility shall make reasonable accommodations for physically challenged and mentally ill offenders, consistent with and as required by the *Americans with Disabilities Act of 1990, as Amended* (42 U.S.C §1231 et seq., 42 U.S.C.A. §12101 et seq.) and the *Virginians with Disabilities Act* (COV §53.1-1 et seq.).
 - b. This shall include but not be limited to medical and mental health care, physical plant accommodations, medication, protection from heat injury, skilled nursing care, and programming.
 - c. Health care, security, and other staff shall avoid disciplining offenders for their disabilities and provide personal safety protection for those with disabilities, especially the elderly.
 - d. Facilities housing offenders with disabilities shall provide offender access to medical services and wheelchair access in dining halls, day rooms and other spaces where seating accommodations are made.
 - e. Toilet access shall be provided for offenders consistent with their medical needs as determined by a medical practitioner.
2. 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 reasonable accommodation of the offender's needs with consideration of the structure and function of the facility.
3. Appropriately trained individuals should be assigned to assist offenders who cannot otherwise perform basic life functions. (4-4143, 4-ACRS-6A-04-1) Offenders should be limited to providing assistance in such matters as ambulation and should not provide personal care such as bathing.
4. The facility should provide education, equipment and facilities, and the support necessary for offenders with disabilities to perform self-care and personal hygiene in a reasonably private environment. (4-4144, 4-ACRS-6A-04-2)
5. Durable medical equipment in appropriate working order, supplies, disability aids, and prostheses are ordered, maintained, provided, and available for offender use as medically necessary.
6. Physical therapy shall be available on or off-site, as appropriate, and shall be carried out, subject to the offender's consent, as prescribed by the facility medical practitioner.
7. Each facility should develop and implement training for security and health services personnel on the needs and care of offenders with disabilities who are housed at that facility.
8. The facility shall ensure that qualified offenders with disabilities shall not, 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 facility, or be subjected to discrimination. (4-4277, 4-4429, 4-ACRS-6B-01)
9. Facilities housing offenders with disabilities should make provisions to meet the educational and vocational needs of offenders who require special placement because of physical, mental, emotional or learning disabilities. (4-4475)
10. Facilities housing offenders with disabilities should provide for employment for offenders with disabilities. (4-4448)
11. Operating Procedure 803.3, *Offender Telephone Service*, provides for telephones at wheelchair

height and, where needed, special equipment suitable for the hearing impaired. (4-4497, 4-ACRS-5A-19)

- a. 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.
 - b. Public telephones with volume control are also made available to offenders with hearing impairment.
12. Staff and offenders have access to a designated facility ADA Coordinator and the DOC ADA Coordinator who 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 disabled offenders, and all legal requirements for the protection of offenders with disabilities. (4-4429-1, 4-ACRS-6A-01-1)

D. Durable Medical Equipment, Disability Aids, and Prostheses

1. Operating Procedure 750.3, *Prostheses*, provides that a prosthesis or orthotic should be made available to an offender if failure to do so will result in deterioration of the offender's health while incarcerated.
2. Prostheses or orthotics will be made available only by order of a DOC physician, dentist, or optometrist.
3. The DOC will determine the style, type, and manufacturer of the device based on the offender's needs and relevant security considerations.
4. The offender may be charged a portion of the acquisition cost for offender owned prostheses in accordance with Operating Procedure 720.4, *Co-Payment for Health Care Services*. No offender will be denied access to a medically necessary device or service due to inability to pay.
5. Resources are made available to help offenders with mobility impairments that are being discharged to have access to mobility equipment after their release.

E. Deaf and Hard of Hearing Offenders

1. Offenders with reported hearing disabilities will be referred to the facility attending medical practitioner for examination and diagnosis. Consultation with, or referral to, a specialist may be appropriate to determine the extent of the disability.
2. The offender's attending DOC physician will certify and advise the Facility Unit Head if the offender needs a special non-medical accommodation or qualified sign language interpreter. In such cases an interpreter must be provided at no expense to the offender in the following situations:
 - a. Medical screenings and services as defined by the DOC
 - b. Mental health interviews and services as defined by the DOC
 - c. Due process issues as defined by DOC operating procedures, to include disciplinary hearings, adverse classification hearings, parole hearings, or any other hearing that may adversely affect the offender
 - d. Offender population meetings
 - e. Programs/classes
 - f. Interviews and orientations
 - g. Announcements
3. In cases where an offender cannot read, speak, or is dyslexic, the facility should contact the DOC ADA Coordinator for further review.
4. Restraints should be applied to deaf offenders with handcuffs in front to allow some communication unless there is a significant security issue.

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*, in the same manner as any other offender.
3. 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.
4. Any restraints authorized in Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior* may be used on disabled offenders subject to the guidance below and recommendations of a medical practitioner (or designee).
5. Methods of Restraint for Types of Disabilities
 - a. Back Injuries
 - i. Offenders should be laid with their backs on a board when transporting
 - ii. Metal or soft restraints may be used to secure limbs to board
 - iii. Soft restraints may be used under the back to secure the offender to the board
 - iv. Metal restraints should not be used between the offender's back and the board
 - b. Arm Sling/Swath and Free Sling
 - i. Prior to treatment, offenders with an injured arm should have the uninjured arm secured to a waist chain using metal handcuffs.
 - ii. The injured arm should be secured as approved by medical personnel
 - c. Wheelchairs and Walkers
 - i. Quadriplegic offenders may be secured using metal or soft restraints.
 - ii. Paraplegic offenders should be restrained using a waist chain and handcuffs. A soft strap should be utilized to secure the offender to the wheelchair. Leg irons may be used if no medical restrictions preclude their use.
 - iii. Offenders requiring walkers, canes, or crutches may be transferred to a wheelchair and appropriately restrained.
 - d. Prostheses
 - i. Leg prostheses are not normally removed
 - ii. Arm or hand prostheses may be removed under the supervision of medical staff.
 - iii. Full restraints (metal or soft) can be used if there is no medical restriction.
 - e. Dialysis
 - i. Offenders who require dialysis may be fully restrained as approved by a medical practitioner.
 - ii. Metal handcuffs may be loosely applied to wrist, cuffed in front only, and more than one inch from the graft or swelling.
 - iii. Leg irons can be worn provided there is no swelling or sores around the ankle
 - iv. Any offender being returned from the hospital after graft surgery should not be restrained with any device on the graft arm. The other arm may be cuffed to a waist chain.
 - f. Bedridden - A medical practitioner (or designee) should suggest transport vehicles and restraints that are appropriate for bedridden offenders.
 - g. Standard Position for Four-Point or Five-Point Restraints
 - i. To prevent medical problems, offenders in four or five-point restraints should be placed on their back with arms secured at their side

ii. Hands should be positioned no higher than the waist

V. REFERENCES

Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior*

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

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

Operating Procedure 750.3, *Prostheses*

Operating Procedure 803.3, *Offender Telephone Service*

Standard Treatment Guideline for *Medical/Location Codes*

VI. FORM CITATIONS

None

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years from the effective date.

Signature Copy on File

6/9/16

A. David Robinson, Chief of Corrections Operations

Date