



# Virginia Department of Corrections

## Offender Management and Programs

### Operating Procedure 801.3

#### *Managing Inmates and Probationers/Parolees with Disabilities*

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Directive 801, *Facility Administration*

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### REVIEW

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

### COMPLIANCE

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

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## DEFINITIONS

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

**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.

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

**Health Authority** - The individual who functions as the administrator of the facility medical department.

**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.

**Health-Trained Staff** - A DOC employee, generally a Corrections Officer, who has been trained to administer health screening questionnaires, including training as to when to refer to health care staff and with what level of urgency.

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

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

**Medical Practitioner** - A Physician, Nurse Practitioner, or Physician's Assistant.

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

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

**Physical or Mental Impairment** - A Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense

organ, respiratory (including speech organs), cardiovascular, reproductive, immune, digestive, genitourinary, hemic or lymphatic, skin and endocrine; or any mental or psychological disorder, such as mental retardation (Developmental Disorder), organic brain syndrome, emotional or mental illness, and specific learning disabilities. The phrase “physical or mental impairment” includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

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

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

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

**Qualified Individual with a Disability (Inmate and CCAP Probationer/Parolee)** - An inmate or CCAP probationer/parolee with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the facility.

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

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

**Undue 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 unit 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.

## PURPOSE

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

## PROCEDURE

- I. Training and Responsibility
  - A. All staff, contract staff, interns, and volunteers who regularly interact with inmates and CCAP probationers/parolees will receive instruction on providing accommodations for inmates and CCAP probationers/parolees with disabilities and the requirements of this operating procedure.
  - B. All staff and contract staff must complete the mandatory *Americans with Disabilities Act (ADA)* on-line training, annually. Upon completion of the training, staff must print a copy of the certificate and submit it to unit training staff or their immediate supervisor for organizational units without training staff.
  - C. The Facility Unit Head or designee and the facility ADA Coordinator will consult with the facility Medical Practitioner or designee prior to taking action regarding disabled inmates and CCAP probationers/parolees in the following areas: (5-ACI-6C-06)
    1. Housing assignments
    2. Program assignment
    3. Disciplinary measures
    4. Transfer to other facilities
    5. When immediate action is required, a consultation to review the appropriateness of the action occurs as soon as possible, but no later than 72 hours.
  - D. Staff will inform all inmates and CCAP probationers/parolees during intake and formal orientation of their right to non-discrimination based on a disability and the process for requesting a reasonable accommodation; see Operating Procedure 810.1, *Inmate Reception and Classification*, Operating Procedure 810.2, *Transferred Inmate Receiving and Orientation*, and Operating Procedure 940.4, *Community Corrections Alternative Programs*. (5-ACI-3D-04)
    1. Staff must inform all inmates transferred directly to the infirmary or a restorative housing unit as a part of orientation of their right to non-discrimination based on a disability and the process for requesting a reasonable accommodation.
    2. Staff will provide each inmate and CCAP probationer/parolee, at arrival, with a copy of Attachment 1, *Notice of Rights for Inmates and CCAP Probationers/Parolees with Disabilities*, which includes the DOC ADA Coordinator's contact information.
    3. The Facility Unit Head or designee will include the facility ADA Coordinator's name and contact information in the facility *Orientation Manual, Packet*, and/or other written orientation materials.
  - E. Information on the nature and extent of an inmate's or CCAP probationer's/parolee's disability and any reasonable accommodations related to the disability is protected health information. This information is confidential and staff will disclose this information only when necessary to provide assistance to the inmate or CCAP probationer/parolee or as authorized and/or permitted by the inmate or CCAP probationer/parolee.
  - F. DOC and Facility ADA Coordinator



1. Staff, inmates, and CCAP probationers/parolees will have access to the DOC ADA Coordinator and a facility ADA Coordinator.
2. The DOC ADA Coordinator is an appropriately trained and qualified individual, educated in the problems and challenges faced by inmates and CCAP probationers/parolees who have physical and/or mental impairments, the programs designed to educate and assist inmates and CCAP probationers/parolees with disabilities, and all legal requirements for the protection of inmates and CCAP probationers/parolees with disabilities. (5-ACI-5E-03; 4-ACRS-6A-01-1)
  - a. The DOC ADA Coordinator serves as the authority on all issues related to inmates and CCAP probationers/parolees with disabilities, reasonable accommodations, and the application of this operating procedure.
  - b. The DOC ADA Coordinator is responsible to train and provide guidance to the facility ADA Coordinator on the mandated legal requirements regarding disability accommodations.
3. The facility ADA Coordinator reviews all inmate and CCAP probationer/parolee requests for a reasonable accommodation and, in consultation with appropriate staff, will make a determination on the inmate's or CCAP probationer's/parolee's request.
  - a. The facility ADA Coordinator, when making a determination on an accommodation, will take into consideration the following requirements :
    - 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 inmate, CCAP probationer/parolee or any other person.
  - b. The facility ADA Coordinator will:
    - i. Maintain documentation of the facility accommodation process to include approvals, denials, modifications, and appeals.
    - ii. Maintain a current listing of all facility accommodations provided to inmates and CCAP probationers/parolees.
    - iii. Make rounds twice per month to be available to inmates and CCAP probationers/parolees. The facility ADA Coordinator should document these rounds in facility logbooks.

## II. Inmates and CCAP Probationers/Parolees with Disabilities

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



- E. Staff must provide inmates and CCAP probationers/parolees with a disability with education, durable medical equipment, supplies and facilities, and the support necessary to perform self-care and personal hygiene in a reasonably private environment. (5-ACI-2C-13; 4-ACRS-6A-04-2)
1. The Facility Unit Head or designee must ensure that inmates and CCAP probationers/parolees have access to a toilet consistent with their medical needs as determined by a facility Medical Practitioner.
  2. The Health Authority or designee should assign appropriately, trained individuals to assist inmates and CCAP probationers/parolees who cannot otherwise perform major life activities. Inmate and CCAP probationer/parolee helpers are limited to providing assistance in such matters as ambulation and should not provide personal care such as bathing. (5-ACI-2C-12; 4-ACRS-6A-04-1)
- F. When a communication disability hinders an inmate's or CCAP probationer's/parolee's ability to communicate:
1. Staff, contract staff, and interns are responsible for communicating information, announcements, procedures, and other directions to inmates and CCAP probationers/parolees with communication disabilities in a manner that will maximize the inmate's or CCAP probationer's/parolee's ability to comprehend and understand the information.
  2. Staff must provide the inmate or CCAP probationer/parolee with the necessary accommodations to assist them during orientation, medical care, mental health and wellness care, educational testing and evaluation, and in any explanation of facility rules and procedures.
  3. Staff must make the inmate or CCAP probationer/parolee aware of all facility announcements and alerts such as work call, critical incidents, school, meals, count, etc.
  4. Staff must provide the inmate or CCAP probationer/parolee with reasonable accommodations to ensure the inmate or CCAP probationer/parolee and health care providers are able to communicate effectively during all scheduled facility appointments to include but not limited to any review of medical history, medical appointments, follow-up appointments, and treatment sessions.
    - a. When staff transport an inmate or CCAP probationer/parolee for health care, a facility health care provider will inform the offsite health care provider, as far in advance of the appointment as possible, that the inmate or CCAP probationer/parolee seeking care has a communication disability such as deafness and requires a qualified interpreter or other auxiliary aids and services.
    - b. In the case of an emergency, a facility health care provider will inform offsite medical providers that an inmate or CCAP probationer/parolee with a communication disability such as deafness that requires an in-person qualified interpreter or other auxiliary aids and services is being transported to them on an urgent basis. Notification will include an estimated time of arrival.
    - c. A facility health care provider will ensure that the inmate's or CCAP probationer's/parolee's communication disability and the need for an accommodation is documented on the *Offender Gate Pass* and recorded in the Health Record for all inmates and CCAP probationers/parolees transported for offsite health care.
  5. A conspicuous notice of an inmate's or CCAP probationer's/parolee's communication disability i.e., hard of hearing, speech impairment, language translation, vision impairment must be noted on the inmate's or CCAP probationer's/parolee's Health Record when the disability affects their ability to communicate. An appropriate advisory regarding this disability must be designated in VACORIS and provided to facility staff.

### III. Probationers and Parolees with Disabilities on Supervision in the Community

- A. Reasonable accommodations must be made for all probationers/parolees with disabilities on supervision in the community, consistent with and as required by the 42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990*, as Amended and COV §51.5-1 et seq., *The Virginians with Disabilities Act*.



- B. Staff must make accommodations to allow for probationer/parolee participation in services, appointments, programs, and required activities.
- C. Since probationers/parolees are on supervision in the community and are not confined to a facility, alternate locations can be used, when needed.
- D. Due to the DOC's ability to use alternate locations, not all P&P Offices are required to be structurally compliant with ADA.

#### IV. Determination of Disability and Reasonable Accommodations

- A. A facility health care provider or health-trained staff member will perform an intake health screening on all inmates and CCAP probationers/parolees immediately upon arrival at a Reception and Classification Center or a Community Corrections Alternative Program (CCAP); see Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*.
  - 1. A facility health care provider or a Mental Health Clinician will perform an intake mental health screening on all inmates upon an inmate's arrival at a Reception and Classification Center.
  - 2. Staff members performing the health care and mental health screening will afford inmates and CCAP probationers/parolees the opportunity to disclose their present and prior disabilities and needs, and to request an accommodation(s) for their disability during the screening. The staff member will:
    - a. Question the inmate or CCAP probationer/parolee regarding any previous accommodation(s).
    - b. Discuss modified or additional accommodations as appropriate.
    - c. Make appropriate notations in the inmate's or CCAP probationer's/parolee's Health Record.
  - 3. When an inmate or CCAP probationer/parolee arrives at a facility with an approved accommodation, medical equipment or an assistive device that presents a concern, the Facility Unit Head, in consultation with the facility Medical Practitioner and ADA Coordinator, will make a decision regarding removal of the item to minimize risk and will provide alternate appropriate accommodations.
  - 4. 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 inmate, their family members, or any previous health care provider can submit documentation of a prior diagnosis in support of or on behalf of an inmate's or CCAP probationer's/parolee's health care or mental health needs to the facility ADA Coordinator or DOC ADA Coordinator. The ADA Coordinator will review and consider the information as a part of the disability accommodation process.
- C. In institutions, the facility Medical Practitioner, in consultation with qualified health care practitioners or specialists, and in conjunction with the affected inmate, will diagnose any disability, not previously diagnosed.
  - 1. A health care provider or health-trained staff member will review the inmate's medical classification code and location code during the intra-system transfer process, and at any time, they identify a change in the inmate's condition to ensure it reflects the inmate's current medical status.
  - 2. The facility Medical Practitioner will assign a medical code, which indicates if the inmate has an impairment that qualifies as a disability. This determination is based on 42 U.S.C. §12101 et seq., *Americans with Disabilities Act of 1990, as Amended* and COV §51.5-1 et seq., *The Virginians with Disabilities Act*. Qualifying disabilities include but are not limited to the following:
    - a. Legal Blindness
    - b. Deafness
    - c. Chronic Health Conditions
    - d. Mental Health Conditions



- e. Intellectual or Developmental Disability
  - f. Autism Spectrum Disorder
3. After the initial health screening and a comprehensive health appraisal are completed and the findings evaluated, the Health Authority or designee will medically classify the inmate and assign the inmate a medical location code, which indicates the inmate's requirements for physical accommodations and access to health care services.
- D. When the facility Medical Practitioner diagnoses a disability, 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 inmate's or CCAP probationer's/parolee's condition.
- 1. The facility Health Care Practitioner will make a determination on the specific accommodation and will determine the type of auxiliary aid and/or service to be provided taking into consideration the request of the inmate or CCAP probationer/parolee with the disability. The inmate's and CCAP probationer's/parolee's request, although not determinative, is given priority. This information will be recorded in the Health Record.
  - 2. The Facility Unit Head, in collaboration with the facility Health Care Practitioner, will make a decision on an alternate appropriate accommodation when the required medical equipment or assistive device poses an undue hardship to the facility or to the safety and security of the inmate, CCAP probationer/parolee or any other person.
    - a. Non-health care providers must not under any circumstances substitute their judgment for that of a health care provider when the health care provider prescribed an accommodation to address a physical or mental disability.
    - b. If there are unclear issues about an accommodation, the DOC ADA Coordinator may advise whether the proposed accommodation poses an undue hardship to the facility or to the safety and security of the inmate, CCAP probationer/parolee or any other person prior to a final decision on 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 inmate's or CCAP probationer's/parolee's protection under ADA and/or the accommodation to be provided.
- E. Physical therapy will be available on or off-site, as appropriate, and will be carried out with the inmate's or CCAP probationer's/parolee's consent, as prescribed by the facility Medical Practitioner.
- F. Health care staff must record all inmate and CCAP probationer/parolee requests for diagnosis of a disability, determinations about an inmate or CCAP probationer/parolee disability, and whether the inmate or CCAP probationer/parolee will receive medical accommodations for the disability the inmate's or CCAP probationer's/parolee's Health Record.
- G. Health care staff must provide the inmate or CCAP probationer/parolee with a copy of the decisions made in regards to the disability determination, including but not limited to diagnoses, the reasons for denial or modification of the request, and any reasonable accommodation that will be provided to the inmate or CCAP probationer/parolee.

V. Accommodation Requests

- A. Inmates and CCAP probationers/parolees may request a reasonable accommodation for their disability by submitting a *Reasonable Accommodation Request 801\_F7* to the facility ADA Coordinator. Inmates and CCAP probationers/parolees who have difficulty in communicating, understanding, or writing a *Reasonable Accommodation Request* should contact their counselor or other designated staff for



assistance.

- B. The facility ADA Coordinator will review the *Reasonable Accommodation Request* and, in consultation with appropriate health care staff will:
1. Make a decision on the *Reasonable Accommodation Request* in writing within ten business days, or sooner, by either granting the request, denying the request, requesting further investigation, or granting the request with modification. The ADA Coordinator must give a specific reason when denying or modifying the request.
  2. Place all *Reasonable Accommodation Requests* with respect to medical care in the inmate's or CCAP probationer's/parolee's Health Record, maintain a copy in their records, and forward a copy to the inmate or CCAP probationer/parolee.
  3. Maintain all *Reasonable Accommodation Requests* that do not specifically involve medical care.
- C. If a facility Health Care Practitioner determines that a medically prescribed accommodation is necessary, facility health care providers will make provisions to provide for the medical accommodation.
1. The Facility Unit Head or designee must review all medically prescribed accommodations to address any facility safety and security concerns.
  2. If facility health care providers have safety or security concerns regarding the medical accommodation, they will consult with the Facility Unit Head or facility ADA Coordinator.
  3. If a medically prescribed accommodation poses an undue hardship on the facility or to the safety and security of the inmate, CCAP probationer/parolee, or any other person, the facility ADA Coordinator must notify a facility health care provider of the safety/security concerns so that the prescribed accommodation can appropriately modified.
- D. In determining whether an inmate's or CCAP probationer's/parolee'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 a 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 inmate or CCAP probationer/parolee who believes that because of their disability, they were subject to discrimination or who decides to appeal their *Reasonable Accommodation Request* may do so in accordance with Operating Procedure 866.1, *Offender Grievance Procedure*, or Operating Procedure 866.2, *Offender Complaints, Community Corrections*. The facility ADA Coordinator must initially reviewed grievances and complaints of this type and should consult with the Facility Unit Head and the DOC ADA Coordinator.

## VI. Housing Inmates with Disabilities

- A. Staff will use information from the inmate's *Classification Assessment* and their *Cell Compatibility Assessment* to determine appropriate housing and bed assignments for inmates with disabilities; see Operating Procedure 425.4, *Management of Bed and Cell Assignments (Restricted)*.
1. Staff will make housing and bed assignments for inmates with disabilities in a manner that provides for the inmate's safety and security. (5-ACI-2C-11; 4-ACRS-6A-04)
  2. Housing used by inmates with disabilities, is designed for their use and provides for integration with other inmates. (5-ACI-2C-11; 4-ACRS-6A-04)



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

#### B. Inmates Housed in the Infirmary

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

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

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

probationer's/parolee's release.

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

#### VIII. Inmate and CCAP Probationer/Parolee Services and Special Considerations

- A. All facilities will provide accommodations, when necessary, to afford inmates and CCAP probationers/parolees with disabilities access to and the ability to participate fully in the facilities' programs and services to include but not limited to the following: (5-ACI-2C-11)
1. Educational Testing and Instruction; see Operating Procedure 601.4, *Educational Testing*, Operating Procedure 601.5, *Academic Programs*, and Operating Procedure 601.6, *Career and Technical Education Programs*.
  2. Recreation; see Operating Procedure 841.6, *Recreation Programs*, and Operating Procedure 841.4, *Restorative Housing Units*.
  3. Telephone Service; see Operating Procedure 803.3, *Offender Telephone Service*.
  4. Visitation; see Operating Procedure 851.1, *Visiting Privileges*, and Operating Procedure 841.4, *Restorative Housing Units*.
  5. Work Programs; see Operating Procedure 841.2, *Offender Work Programs* (2-CI-5A-1)
- B. The facility ADA Coordinator in consultation with the DOC ADA Coordinator and other staff, as appropriate, will consider a reasonable accommodation for special property items for inmates and CCAP probationers/parolees on a case-by-case basis consistent with the disability being addressed; see Operating Procedure 802.1, *Inmate and CCAP Probationer/Parolee Property*.
- C. Staff should make every effort to communicate with inmates and CCAP probationers/parolees who have a communication disability in a manner that will maximize the inmate's or CCAP probationer's/parolee's ability to comprehend and understand the information; to include providing interpreters for deaf inmates and CCAP probationers/parolee and other appropriate means.
- D. Staff will take into account how an inmate's or CCAP probationers/parolees disability may affect their understanding of facility procedure when using the disciplinary process; see Operating Procedure 861.1, *Offender Discipline, Institutions*, and Operating Procedure 940.4, *Community Corrections Alternative Programs*.
- E. Security Considerations for Institutions
1. Inmates and CCAP probationers/parolee who have a disability, which interferes with their ability to follow normal count procedures, will be reasonably accommodated to provide for the effective performance of count Operating Procedure 410.2, *Count Procedures* (Restricted).
  2. Inmates who have a disability that affects how staff transport the inmate will be accommodated in a manner that provides for safe and secure inmate transportation; see Operating procedure 411.1, *Inmate Transportation* (Restricted).
  3. When an appropriate warning must precede the use of force or a force multiplier, staff must notify inmates with communication disabilities in a manner that the inmate can observe and understand; see Operating Procedure 420.1, *Use of Force* (Restricted).
  4. Inmates who have a disability that affects the application of restraints will be accommodated in a manner deemed appropriate by the facility Medical Practitioner and to ensure the safety of the inmate;

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

## REFERENCES

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

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

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

Operating Procedure 410.2, *Count Procedures* (Restricted)

Operating procedure 411.1, *Inmate Transportation* (Restricted)

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

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

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

Operating Procedure 601.4, *Educational Testing*

Operating Procedure 601.5, *Academic Programs*

Operating Procedure 601.6, *Career and Technical Education Programs*

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

Operating Procedure 720.6, *Dental Services*

Operating Procedure 750.3, *Prostheses*

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

Operating Procedure 803.3, *Offender Telephone Service*

Operating Procedure 810.1, *Inmate Reception and Classification*

Operating Procedure 810.2, *Transferred Inmate Receiving and Orientation*

Operating Procedure 820.2, *Inmate Re-entry Planning*

Operating Procedure 841.2, *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*

Operating Procedure 866.2, *Offender Complaints, Community Corrections*

Operating Procedure 940.4, *Community Corrections Alternative Programs*

*Standard Treatment Guideline for Medical & Location Codes*

## ATTACHMENTS

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

## FORM CITATIONS

*Reasonable Accommodation Request 801\_F7*

