



**DEPARTMENT OF CORRECTIONS**  
**Institutions**



<b>Title:</b>	<b>Effective Communication for Adults in Custody</b>	<b>Policy: 40.2.11</b>
<b>Effective:</b>	<b>07/12/24</b>	<b>Supersedes: 05/15/12</b>
<b>Applicability:</b>	<b>All Institutions and Functional Units</b>	
<b>Directives Cross-Reference:</b>		
<b>Rules:</b>	<b>291-006 Discrimination Complaint Review System</b>	
	<b>291-109 Grievance Review System</b>	
	<b>291-111-0100 Accessibility for Adults in Custody with Disabilities</b>	
<b>Policy:</b>	<b>DOC Policy 40.2.14 Accessibility for Adults in Custody with Disabilities</b>	
<b>Attachments: None</b>		

**I. PURPOSE**

The purpose of this policy is to establish staff responsibilities and procedures for ensuring adults in custody with speech or communication disabilities (including those who are deaf or hard of hearing) are provided access to department programs, services, and activities. Procedures may include providing necessary hearing assessments or auxiliary aids and services to communicate effectively with others.

**II. DEFINITIONS**

- A. **Accessibility Request:** A request to modify department rules, policies, or practices to remove architectural, communication, or transportation barriers, or to provide auxiliary aids and services for a qualified AIC with a disability to participate in or access the benefits of department programs, services, or activities.
- B. **Adult in Custody (AIC):** Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.
- C. **Auxiliary Aids and Services:** Auxiliary aids and services are as defined in federal law at 28 CFR § 35.104, and include:
  - 1. Qualified interpreters on-site or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive

listening systems; telephones 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 (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

2. Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
  3. Acquisition or modification of equipment or devices; and
  4. Other similar services and actions.
- D. Deaf or Hard of Hearing AICs: An AIC who is unable to hear well enough to rely on their hearing as a means of processing information and who rely on auxiliary aids and services to effectively communicate and who qualify as individuals with disabilities under applicable state and federal laws.
- E. Effective Communication: Communication with AICs with speech or communication disabilities that is substantially as effective as communication with the general AIC population, and will, when necessary, include the provision of appropriate auxiliary aids and services, such as qualified interpreters.
- F. Qualified Interpreter: An interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary. AICs will not be used as qualified interpreters.

### **III. POLICY**

#### **A. General Policies**

1. Non-Discrimination Based on Disability:
  - a. It is the policy of the Department of Corrections that no qualified AIC with a disability shall be excluded from participation in or be denied the benefits of services, programs, or activities available to qualified AICs, or be subjected to unlawful discrimination under state or federal anti-discrimination laws. See also

the Department of Corrections administrative rules on Accessibility for Adults in Custody with Disabilities (OAR 291-111) and the department's policy on Accessibility for Adults in Custody with Disabilities (DOC policy 40.2.14).

- b. The department will provide AICs with speech or communication disabilities access to auxiliary aids and services without cost to the AIC when required for effective communication in accessing and participating in department programs, services, and activities.
  - c. As authorized by law, the department retains the authority and discretion to deny access to and participation in certain AIC activities when the department determines that a particular activity presents a direct threat of injury or death to the AIC, or the AIC's participation in the activity would affect or require a fundamental change in the nature of the program, service, or activity.
2. Statewide AIC ADA Coordinator for AICs With a Disability:
- a. The department's statewide AIC ADA Coordinator shall serve as the department's services coordinator for deaf and hard of hearing AICs.
    - A. The statewide AIC ADA Coordinator will be trained and knowledgeable concerning the requirements of applicable state and federal laws regarding the provision of auxiliary aids and services to deaf and hard of hearing AICs.
    - B. The statewide AIC ADA Coordinator may consult with the Oregon Department of Human Services, Deaf and Hard of Hearing Services Program (ODHHS); U.S. Department of Justice, Civil Rights Division; Disability Rights Oregon (DRO); Oregon Department of Justice; and such other resources as the statewide AIC ADA Coordinator deems appropriate in coordinating and overseeing the department's effective communication policy and services for deaf and hard of hearing AICs.
  - b. The statewide AIC ADA Coordinator's name and contact information will be kept updated on the department's website. The name and contact information for the statewide ADA Coordinator and for the institution ADA Coordinator will be posted in a secure area in any housing unit in which deaf and hard of hearing AICs are held.
  - c. The statewide AIC ADA Coordinator and the institution AIC ADA Coordinator will together meet with each deaf or hard of hearing AIC at least once yearly, utilizing the services of a qualified interpreter or other auxiliary aids and services as required for effective communication, to review the AIC's programming and communication needs, and to discuss any issues of concern.
    - A. The statewide AIC ADA Coordinator and institution ADA Coordinator will

jointly prepare and provide to the institution functional unit manager a brief written report of any communication needs and areas of concern following the meeting.

- B. The institution executive team will share the contents of these summary reports with the institution management team.
- d. All denied accessibility requests are determined by the Inspector General or designee and Statewide AIC ADA Coordinator in consultation with the Institution AIC ADA Coordinator.

## **B. Intake Processing**

### **1. General Policy**

The department will provide a deaf or hard of hearing AIC at intake with access to a qualified interpreter or other auxiliary aids and services, as required, providing effective communication to assist the AIC with medical, psychological, and educational assessments, and to help explain the department's rules and facility policies and procedures to the AIC.

### **2. Hearing Assessment**

As part of the department's intake processing of each AIC, Health Services staff will assess and, if necessary, test an AIC for hearing loss. Health Services staff will obtain and review records from the community, county jail incarceration, and court records, if available, as part of its assessment of the AIC. If Health Services staff determine that an AIC is deaf or hard of hearing, Health Services staff will note the disability in the AIC's institutional file, the department's computerized records, and will refer the AIC to the institution AIC ADA Coordinator.

### **3. Auxiliary Aids and Services Assessment**

- a. After Health Services staff determine that an AIC is deaf or hard of hearing, the department will presume that auxiliary aids and services in the form of qualified interpreters, visual notifications, telecommunication devices, or other aids and services are required for the AIC to effectively communicate with others in accessing and participating in department programs, services, and activities.
- b. AICs may refuse or discontinue an approved or offered auxiliary aid or service. If a deaf or hard of hearing AIC indicates an auxiliary aid or service is no longer required, refuses the auxiliary aid or service, or discontinues the use of the auxiliary aid or service, the AIC must notify the institution AIC ADA Coordinator. To have an auxiliary aid or service reinstated, the AIC must resubmit an

accessibility request.

4. Ensuring Staff Awareness

- a. The institution functional unit manager or designee, in consultation with the institution AIC ADA Coordinator and statewide AIC ADA Coordinator, will take appropriate steps to ensure that department staff having regular contact with an AIC with speech or communication disability are made aware of the AIC's need for auxiliary aids and services.
- b. The institution functional unit manager or designee, in consultation with the institution AIC ADA Coordinator will ensure a notice is posted at the entrance to all facilities that house deaf or hard of hearing AICs, and outside each housing unit where deaf or hard of hearing AICs are assigned. The notice will clearly state that the facility and unit house deaf or hard of hearing AICs.

5. Provision of Written Materials

The institution functional unit manager or designee, in consultation with the statewide AIC ADA Coordinator and institution AIC ADA Coordinator, will ensure that AICs with a speech or communication disability are provided written materials in a format that is interpreted when required for effective communication and understanding of the contents of the written materials. Written materials may be interpreted and provided to the AIC:

- a. In a recorded, video sign language interpreted or otherwise appropriately interpreted format that can be accessed and viewed by the AIC in the institution with the appropriate equipment; or
- b. By providing a qualified interpreter.

**C. Access to Auxiliary Aids and Services When Required for Effective Communication**

1. The statewide AIC ADA Coordinator, in conjunction with institution AIC ADA Coordinator(s), will ensure that AICs with speech or communication disabilities are provided access to auxiliary aids and services when required for effective communication in accessing and participating in department programs, services, and activities in a manner that is consistent with state and federal nondiscrimination laws. Affected programs, services, and activities include, but are not limited to, the following:
  - a. Intake assessments and classification;
  - b. Institution admission and orientation presentations;
  - c. Medical and mental health services;

- d. Substance abuse and other treatment programs;
  - e. AIC work and education programs;
  - f. Program, housing, classification, sentence computation and release, and other status reviews;
  - g. Disciplinary hearings and grievance, discrimination complaint, and other administrative processes for review of decisions and actions by department staff affecting AICs; and
  - h. Prison Rape Elimination Act (PREA) reporting and compliance
2. Auxiliary aids and services for AICs with speech or communication disabilities may include, but are not limited, to the following:
- a. Aural materials;
  - b. Braille or large print materials;
  - c. Magnifying devices;
  - d. Handwritten or typed notes if the communication is short and simple;
  - e. Qualified sign language interpreters if the communication is not short and simple (either in person or video interpretation) and for large meetings or events;
  - f. Real-time captioning for large meetings or events;
  - g. Open or closed captioning of video materials;
  - h. Written transcripts; and
  - i. Other methods of making aurally delivered materials accessible to people with hearing loss.
3. When an auxiliary aid or service is requested by an AIC with a speech or communication disability, the institution AIC ADA Coordinator will consult with the AIC to assess what auxiliary aids and services will be effective. Staff will give primary consideration to the AIC's choice unless another equally effective means of communication is available, and provision of the auxiliary aid or service requested by the AIC would result in an undue financial or administrative burden to the department or a fundamental alteration of programs, services, or activities.

4. Whenever the department provides a deaf or hard of hearing AIC with the services of a qualified interpreter for effective communication, the department may do so by providing the qualified interpreter in person or via video remote interpreting (VRI), video conferencing, or through other similar means.
5. The institution functional unit manager or designee, institution AIC ADA Coordinator, and other functional unit staff will consult with the statewide AIC ADA Coordinator when considering provision to auxiliary aids and services. Staff shall promptly provide notice to the AIC by notifying the individual of the proposed auxiliary aid and service to be provided as soon as possible.

**D. Continuation of Provision of Auxiliary Aids and Services**

1. After conducting an intake assessment and documenting an AIC's need for auxiliary aids and services for effective communication in the AIC's institution file and in the department's computerized records, functional unit staff will continue to provide auxiliary aids and services to the AIC unless the AIC affirmatively indicates that the AIC does not want such services, or the department Health Services determines that the AIC no longer requires such services.
2. If Health Services staff determine that an AIC does not have a speech or communication disability that requires auxiliary aids and services for effective communication, or if the AIC initially refuses or does not request access to auxiliary aids and services but later requests auxiliary aids and services for effective communication, institution Health Services staff will work with the statewide AIC ADA Coordinator and institution AIC ADA Coordinator to provide the AIC with an assessment and determination of the AIC's need for access to auxiliary aids and services for effective communication.

**E. Grievances and Discrimination Complaints**

1. Grievances and Discrimination Complaints Filed by AICs

Department of Corrections grievance and discrimination complaint procedures will apply to complaints filed by AICs in accordance with the department's rules on Grievance Review System (OAR 291-109) and the department's rules on Discrimination Complaint Review System (OAR 291-006). Complaints regarding perceived or actual barriers to access or participation in department programs, services, and activities, or regarding auxiliary aids and services or other effective communication issues, will be routed to the Statewide AIC ADA Coordinator for review and response.

2. Complaints Filed by External Entities or Persons

- a. The complainant may submit a written complaint to Department of Corrections

Headquarters addressed to the Statewide AIC ADA Coordinator or by emailing DOCADAHotline@doc.oregon.gov or by calling the Oregon Department of Corrections Inspector General Hotline (877) 831-0389.

- b. Complainant must submit the complaint within 14 calendar days from the incident or issue date. The department will reply within 70 calendar days from receipt of the complaint by the Statewide AIC ADA Coordinator, unless further review or investigation is necessary to satisfactorily respond to the complaint.
- c. Complainant may appeal the original decision by submitting a written appeal to Department of Corrections Headquarters addressed to the Statewide AIC ADA Coordinator or by emailing DOCADAHotline@doc.oregon.gov or by calling the Oregon Department of Corrections Inspector General Hotline (877) 831-0389. Appeals must be submitted within 14 days from the date the original response was sent to the complainant. The department will respond within 70 calendar days from the date of receipt of the appeal by the Statewide AIC ADA Coordinator, unless further review or investigation is necessary to satisfactorily respond to the appeal. The appeal must include why the complainant disagrees with the original decision and include any supporting documentation.
- d. The complaint appeal will be responded to by the Department of Corrections Inspector General or designee. The response to the complainant's appeal is final. No further appeal or response will be provided by the department.
- e. Complaint records will be retained in accordance with the department's retention schedule.
- f. Department of Corrections AIC grievance and discrimination complaint procedures outlined in OAR 291-109 and OAR 291-006 respectively do not apply to complaints filed by entities or persons external to the department.

#### **IV. IMPLEMENTATION**

This policy will be adopted immediately without further modification.

Certified: \_\_\_\_signature on file\_\_\_\_\_

Julie Vaughn, Rules Coordinator

Approved: \_\_\_\_signature on file\_\_\_\_\_

Heidi Steward, Deputy Director