State of Vermont Agency of Human Services Department of Corrections	Title: Americans with Disabilities Act (ADA) – Facility and Field	Page 1 of 22
Chapter: Programs – Classification & Case Planning	**#371.01**	**Supersedes:** *#371.01 ADA,* dated 03/17/2008.

Attachments, Forms & Companion Documents
1. Offender/Inmate Orientation to ADA
2. Request for Reasonable Accommodation/Response Form
3. ADA Accommodation Notification to Staff
4. Program Services Disability Screening Questionnaire
5. Accommodation Decision Appeal to Commissioner
6. Standards for Translation for Persons with Limited English Proficiency

Local Procedure(s) Required: No
Applicability: All staff (including contractors and volunteers)
Security Level: "B"- Anyone may have access to this document.

Approved:

	February 5, 2010	March 5, 2010
Andrew A. Pallito, Commissioner	**Date Signed**	**Date Effective**

PURPOSE

The purpose of this administrative directive is to provide clear and comprehensive guidelines for the Vermont Department of Corrections that are in compliance with the federal *Americans with Disabilities Act* relevant to any individual with a qualifying disability in custody or under supervision of the Department.

POLICY

The federal *Americans with Disabilities Act* prohibits State and local entities from discriminating against any qualified individual with a disability in their programs, services, and activities. The Vermont Department of Corrections and its contracted entities are required to make "reasonable modifications and accommodations" to existing policies, administrative directives, and procedures in order to allow qualified offenders with disabilities the same opportunities as non-disabled offenders, unless to do so would be an undue burden on the Department or jeopardize the safety or security of staff, offenders, or others at facility or field sites, or would result in a fundamental alteration in the nature of a program or activity.

AUTHORITY

Title II of the federal *Americans with Disabilities Act of 1990*. 9 V.S.A. §§ 4500 et seq. Department of Corrections APA rule #05-049, *Classification, Treatment and the Use of Administrative and*

Disciplinary Segregation for Inmates with a Serious Mental Illness, 2005. Federal HIPAA Privacy Standards. American Correctional Association, Standards for Adult Correctional Facilities, 4th Edition, January 2003, Standards 4-4142, 4-4143, 4-4144, 4-4277, 4-4169, 4-4429.

REFERENCE

Department Administrative Directives #254.01 Access to Offender Information, #254.04 Case Documentation – Electronic, #320.01 Offender Grievance System for Field and Facilities, #371.05 Offender Responsibility Planning, #406.01 Inmate Instate Transportation.

DEFINITIONS:

ADA Site Coordinator: A Department of Corrections employee at a correctional facility or probation and parole office appointed by the Superintendent or District Manager, who is trained in all ADA requirements and who oversees all ADA issues related to offenders at that site.

ADA Department Director: A Central Department of Corrections employee appointed by the Commissioner who will be knowledgeable regarding the ADA, and will be responsible for the implementation of ADA standards. The Director will also review all staff decisions about an offender request or need for reasonable accommodation that are modified from the original request, or denied.

Ad-hoc ADA Committee: A group of individuals from within and outside the Department, appointed by the Commissioner to assist and advise the ADA Department Director, as necessary.

Confidentiality: The Vermont Department of Corrections will adhere to all applicable federal and State statutes regarding confidentiality.

Disability: With respect to an individual, 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 being regarded as having such an impairment.

1. *Physical or mental impairment*:
   - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine
   - Any mental or psychological disorder such as mental retardation, 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 non-contagious 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.
   - The phrase *physical or mental impairment* does not include homosexuality or bisexuality.
2. *Major life activities:* Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
3. *Has a record of such an impairment:* Has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.
4. *Is regarded as having an impairment*:
   - 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

- 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,
- Has none of the impairments defined in paragraph 1 of this definition, but is treated by a public entity as having such an impairment.

5. The term *disability* does not include:
   a. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; (though not a disability, Vermont State law prohibits discrimination on the basis of sexual orientation or gender identity.)
   b. Compulsive gambling, kleptomania, or pyromania;
   c. Psychoactive substance use disorders resulting from current illegal use of drugs;
   d. Limited English proficiency (covered by Agency of Human Services Policy #1.02 - 9/27/06; See *Attachment 6.*)

Reasonable Accommodation: Any change in the facility or field environment, policies 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.

Auxiliary Aids and Services: Includes, but is not limited to, telecommunication devices for the deaf, hard of hearing, and visually impaired (e.g., TDD/TYY, closed caption video as necessary and appropriate, Braille, audio technology, large print); a qualified interpreter or an interpreter who demonstrates proficiency adequate to the task; providing a reader or note taker; use of an elevator by mobility-impaired offenders to enable access to programs; delivery of packages to offenders who are in areas that are inaccessible to those in wheelchairs or who have mobility impairments; and modification or acquisition of adaptive equipment and devices.

Undue Burden: Any accommodation(s) which would result in a fundamental alteration in the nature of a program or activity or an undue financial and administrative hardship. Any accommodation will not impose undue hardship on the Department or compromise the safety or security of staff and offenders or others at facility or field sites.

Intake: The process that occurs when an individual is admitted to a correctional facility or probation & parole office following sentencing. In a facility there is a Booking intake, a medical intake by a QHCP and an initial meeting with the assigned Caseworker where identifying information, criminal history, risk issues, and other necessary information is gained from, and relevant information is shared with, the offender/inmate. At a probation & parole office, there is an initial meeting with the assigned Probation & Parole Officer/Intake Officer.

Inmate: 1) An individual in physical custody in a confinement facility; 2) an incarcerated person, including detainees.

Offender: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is under the supervision of the Vermont Department of Corrections.

Program (DOC): A Department of Corrections' mandated, needs-reducing program either in a correctional facility or in the field. Examples include, but are not limited to, Cognitive Self Change

(CSC), Vermont Treatment Program for Sexual Aggressors (VTPSA), Intensive Domestic Abuse Program (IDAP), Intensive Substance Abuse Program (ISAP).

Qualified Health Care Professional (QHCP): 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, physicians' assistants, nurses, nurse practitioners, dentists, and mental health professionals.

Qualified Individual with a Disability: An individual with a disability who, with or without a reasonable accommodation, is able to meet the essential eligibility requirements for the receipt of services or the participation in applicable programs or activities. A disability does not exempt an inmate from a requirement that they possess some other qualification in order to be eligible for the program or activity.

PROCEDURAL GUIDELINES

Department of Corrections staff and/or contractors have several ADA-related responsibilities regarding offenders in custody or under supervision, not only upon initial admission but throughout an offender's custody or supervision. These include:

- Notifying all offenders of their rights under the ADA;
- Screening all offenders entering the correctional system in order to determine if they are individuals with a disability;
- Making reasonable accommodations/modifications when necessary; and
- Following due process procedures if an offender appeals a decision about any disability accommodation or feels they have been discriminated against because of a disability.

Accommodating a disability is always evaluated in the context of it not being an undue burden on the Department, jeopardizing safety or security, or it not resulting in a fundamental alteration in the nature of a program or activity.

Procedural Guidelines for Facilities

Staff in specific facility roles, including contracted medical/mental health providers (QHCP/QMHP), have responsibilities at various points in an inmate's incarceration.

1. Role of the Booking Officer

a. The Booking Officer will administer any screening instruments that they routinely do during the booking process.

b. The Booking Officer will provide any accommodation that is reasonable and necessary and within their authority and ability in order to complete the booking.

c. If a disability is apparent or the inmate requests any accommodation for a disability at this time, the Booking Officer will:

i. Give the inmate the *Offender/Inmate Orientation to ADA form (Attachment 1)* and ensure that it is signed;

ii. Ensure that the Request Section of the *Request for Reasonable Accommodation/Response Form (Attachment 2)* is filled out and signed; and

iii. Give them a copy of both forms. If the inmate's request for an accommodation is verbal, and they are unable to complete the Request Section themselves, the Officer will fill it out and check the verbal request box on *Attachment 2*.

iv. The Booking Officer will then notify the Shift Supervisor and a qualified health care professional of the request.

2. Role of the Qualified Health Care Professional (QHCP)

a. If the Booking Officer has already contacted a qualified health care professional regarding a disability or an inmate's request for accommodation, the QHCP will immediately meet with the inmate, if circumstances warrant it, and review the form/information.

b. Otherwise, within twelve (12) hours of admission to a Department correctional facility, the inmate will meet with a qualified health care professional who will administer the appropriate medical screening questionnaire.

c. At the initial meeting, the qualified health care professional will ask the inmate if a facility correctional officer (e.g., Booking Officer) already discussed with them the Department's obligations to them under the ADA and gave them the *Orientation to ADA form (Attachment 1)* and/or the *Request for Reasonable Accommodation/Response form (Attachment 2)* to read and sign.

d. If the inmate has not already received the *Orientation to ADA form*, the qualified health care professional will orient them to the ADA, and give them *Attachment 1,* ask them to complete and sign it, and give them a copy of the signed form. If an inmate has difficulty understanding the Orientation form, the qualified health care professional will explain the notice to assist the inmate to understand the information. The inmate's signature on this form will indicate their understanding.

e. The qualified health care professional will ensure that a copy of the signed *Attachment 1* goes to the assigned Caseworker and ADA Coordinator, to the inmate file, and a copy in the inmate's medical file.

f. If the inmate requests a reasonable accommodation at this time, the qualified health care professional will give the inmate *Attachment 2* (*Request for Reasonable Accommodation/Response form*) to complete the Request Section, offering assistance if needed. If the inmate's request for an accommodation is verbal, and they are unable to complete the Request Section themselves, the QHCP will fill it out and check the verbal request box on this form. If appropriate, the QHCP will notify the Shift Supervisor immediately of the request.

g. If it is within the qualified health care professional's ability and authority, they will complete the Response Section on *Attachment 2* and take necessary action to reasonably facilitate the accommodation(s). They will give the inmate a signed copy, and ensure that copies of the completed *Attachment 2* are sent to the inmate's facility and medical files, the Caseworker, the Superintendent, and the ADA Site Coordinator.

h. The qualified health care professional will complete the *ADA Accommodation Notification to Facility Staff (Attachment 3)* if an inmate accommodation for medical/mental health purposes has been approved by them, and ensure distribution of all copies (see the form). The purpose of this form is to ensure that at all times facility staff are aware of any accommodation that must be made. If necessary, the QHCP will request other staff assistance in completing this form.

i. If the qualified health care professional has any questions regarding requests for accommodation, or when an accommodation is not within their authority or ability, they will consult the Shift Supervisor and/or ADA Site Coordinator for clarification and resolution.

j. At any time during the inmate's incarceration, the QHCP will respond to a need or request for accommodation, within their authority and ability to do so.

3. Role of the Shift Supervisor

a. The Booking Officer who has done the initial intake or, if appropriate, the qualified health care professional who has done the initial medical screening, will notify the Shift Supervisor of the need or request for an inmate accommodation, if applicable.

b. Upon notification by the Booking Officer, the Shift Supervisor will consult with the qualified health care professional about the requested accommodation. The QHCP will complete the appropriate forms.

c. If an accommodation is approved or modified, the Shift Supervisor will ensure that the completed *ADA Accommodation Notification to Staff* (*Attachment 3*) is placed on file in the inmate's living unit, and a copy of the form accompanies the inmate if they are moved to another unit or facility, or in the event of transport or other transfer.

d. Any questions the Shift Supervisor has regarding requests for accommodation will be referred to the ADA Site Coordinator for clarification and resolution.

e. At any time during the inmate's incarceration, the Shift Supervisor will respond to a need or request for accommodation, within their authority and ability to do so.

4. **Role of the Facility Caseworker** - A facility Caseworker will be assigned to each sentenced inmate upon admission to a Department correctional facility.

a. Within five (5) business days of Booking intake, the Caseworker will meet with the inmate and review the signed Orientation Form forwarded by the QHCP. The Caseworker will ask the inmate if they have any questions about their rights under the ADA (*Attachment 1*) and note whether they have a request for an accommodation.

b. If the inmate did previously request an accommodation from other staff or a QHCP, the Caseworker will review the *Request for Reasonable Accommodation/Response Form (Attachment 2)* with the inmate. If the inmate indicates there is an issue with their request for an accommodation, the Caseworker will contact the ADA Site Coordinator.

c. If the inmate requests an accommodation for the first time at this meeting, the Caseworker will ensure that the Request Section of *Attachment 2* is completed, offering assistance if needed. If the inmate's request for an accommodation is verbal, and they are unable to complete the Request Section themselves, the Caseworker will fill it out and check the verbal request box on this form.

d. If it is within the Caseworker's ability and authority, they will complete the Response Section on *Attachment 2,* take necessary action to facilitate the accommodation(s), and ensure distribution of copies of the form. (See form.)

e. If it is not entirely within their ability and authority, they will consult with the ADA Site Coordinator and if possible, collaboratively develop an individualized response for the inmate. If requested, they will assist the ADA Site Coordinator or QHCP in filling out *Attachment 3* once an accommodation has been approved or modified.

f. If the inmate is required to complete a Department mandatory needs-reducing program(s), (for example, CSC, VTPSA), the Caseworker will administer the *Program Services Disability Screening Questionnaire (Attachment 4)* to the inmate. See the *Questionnaire* for instructions. This is not an inmate self-administered questionnaire.

g. If an accommodation is needed for programming or other reasons, the Caseworker will immediately review *Attachment 2, Request for Reasonable Accommodation/Response* with the inmate, as necessary, and fill out the Response Section. If it is not within their ability and authority, they will consult with the ADA Site Coordinator, as above.

h. If an offender needs or requests a reasonable accommodation for a non-mandatory needs-reducing program/service which they may be participating in (e.g., AA, parenting), they will use

Attachment 2, Request for Reasonable Accommodation. A *Program Services Screening Questionnaire* is not required for non-mandatory programming.

i. Any questions a Caseworker has regarding requests for accommodation will be referred to the ADA Site Coordinator for clarification and resolution.

j. As well as at intake, the Caseworker will be responsible during the entire time an inmate is incarcerated to determine if there are any emerging inmate issues or concerns related to ADA and requests for accommodation.

k. During release planning, the Caseworker will notify the assigned Probation Officer of any ADA accommodation that has been approved for the inmate during incarceration, if relevant to community supervision.

l. The Caseworker will document inmate ADA requests, accommodations, modifications, or denials, or discussions with other staff or contractors, in electronic case notes as appropriate.

Procedural Guidelines for the Field

5. Role of the Probation and Parole Officer

a. A Probation Officer (PO) will be assigned to each offender upon admission to Department of Corrections' community supervision. Within five (5) business days of intake, the assigned Probation Officer or Intake Officer will advise the offender of the Department's obligations to them under ADA, give them the *Offender/Inmate Orientation to ADA (Attachment 1),* and ask them to check off and sign whether they are requesting a reasonable accommodation or not at this time. If an offender has difficulty understanding the form, the Probation Officer will explain the notice to assist the offender to understand the information. The offender's signature on this form will indicate their understanding.

b. If the offender does request a reasonable accommodation at this time, the PO will give them *Attachment 2* and ensure that the Request Section is filled out and signed by the offender, offering assistance if needed. If the offender's request is verbal, and they are unable to complete the Request Section themselves, the PO will fill it out and check the verbal request box on this form.

c. If it is within the PO's ability and authority, they will complete the Response Plan on *Attachment 2*, take necessary action to facilitate the accommodation(s), and ensure distribution of copies. (See form.)

d. If it is not entirely within their ability and authority, they will consult with the ADA Site Coordinator, and if possible, collaboratively develop an individualized response for the offender.

e. If the offender is required to complete a Department mandatory needs-reducing program, (for example, IDAP, ISAP), the PO will administer the *Program Services Disability Screening Questionnaire (Attachment 4)* to the offender. See the *Questionnaire* for instructions. This is not an inmate self-administered questionnaire.

f. If an accommodation is needed for programming or other reasons, the PO will immediately review *Attachment 2, Request for Reasonable Accommodation/Response* with the offender, as necessary, and fill out the Response Section. If it is not within their ability and authority, they will consult with the ADA Site Coordinator, as above.

g. If an offender needs or requests a reasonable accommodation for a non-mandatory needs-reducing program which they may be participating in (e.g., CRASH, alcohol counseling,) they will confer with the agency and/or entity overseeing the program with respect to their request. A *Program Services Screening Questionnaire* is not required for non-mandatory programming.

h. Any question a PO has regarding requests for accommodation will be referred to the ADA Site Coordinator for clarification and resolution.

i. As well as at intake, the PO will be responsible during the entire time an offender is under Department community supervision to determine if there are any emerging offender issues or concerns related to ADA and requests for accommodation.

j. The PO will document offender ADA requests, accommodations, modifications, or denials or discussions with other staff or contractors, in electronic case notes as appropriate.

Procedural Guidelines for both the Facility and Field

6. Role of the ADA Site Coordinator

Each facility Superintendent and field District Manager will appoint a Corrections' professional to act as that site's ADA Site Coordinator and then notify the ADA Department Director which staff will be serving in that role. The Coordinator will be trained in the requirements of this administrative directive and those ADA requirements that are relevant to the Site Coordinator's duties. Duties shall include, but not be 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 Departmental ADA guidelines; provide recommendations to the Department ADA Director, if applicable; and if necessary, recommend actions to achieve compliance.

b. Review and/or complete, if necessary, all offender requests for reasonable accommodation received from staff or offenders/inmates, sign *Attachment 2,* and notify the local Superintendent/District Manager about the requests. The facility Site Coordinator will also sign *Attachment 3, ADA Accommodation Notification to Staff.*

c. Develop individualized responses in collaboration with appropriate staff or qualified health care professionals (facility only) in order to address the needs of specific offenders with disabilities at that site (*Attachment 2*) and communicate these as necessary.

d. In consultation with the facility Caseworker, Probation Officer, qualified health care professional, or other relevant staff, resolve requests for reasonable accommodation by arranging for, among other things:
   i. A dialogue with the offender regarding their need;
   ii. Provision of an accommodation;
   iii. Necessary evaluation by appropriate experts;
   iv. Transfers to appropriate correctional facilities; and
   v. ADA-required auxiliary aids if reasonable and necessary, consistent with the professional evaluation of the disability.

e. Ensure that documentation *(Attachments 1 and 2)* on reasonable accommodation is maintained in the offender's file and electronic case notes. In the facility, ensure that the *ADA Accommodation Notification to Staff* form (*Attachment 3*) is maintained in the inmate's living unit, and in the case of a transport or transfer, sent with the inmate. Notify appropriate staff of the approved disability accommodation(s) and advise staff of any procedures needing modification.

f. Ensure that all ADA materials are copied to an inmate's medical and facility files or an offender's Department file in the field.

g. Ensure that adequate copies of the relevant attachments to this directive are available to each facility housing unit and inmate law library, and each field office, and that staff know how to access them.

h. Submit reports to the Department ADA Director as required and attend mandatory central meetings of all Site Coordinators.

i. Respond to any staff questions about an offender's request for accommodation.

j. In the event that the request is denied or modified, or the offender is dissatisfied with the response, the Site Coordinator will consult with the Department ADA Director who will make the final determination. (See *Attachment 2.*)

k. If an accommodation is needed for an offender required to do a Department mandatory needs-reducing program, and the Caseworker/PO has referred the request to the ADA Coordinator, the Coordinator will send the request and the completed *Program Services Disability Screening Questionnaire (Attachment 4)* to the Department ADA Director.

7. Role of the Department ADA Director

The Commissioner of the Department of Corrections will appoint a statewide ADA Director. The ADA Director will be knowledgeable regarding the ADA and will be responsible for the implementation of ADA standards. The ADA Director's duties will 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. Consult on requests for adaptive equipment for qualified offenders with disabilities in consultation with appropriate specialists and Department Executives;

c. Review, approve or deny, and sign every modification or denial of a reasonable accommodation;

d. Oversee an ADA Coordinator at each Department facility and field site;

e. Coordinate with contracted service providers to ensure that training on, and the provision of reasonable accommodations for, qualified offenders with disabilities are consistent with safety and security;

f. Coordinate training for all staff on the requirements of this directive and the *Americans with Disabilities Act;*

g. Provide assistance to staff, including the ADA Site Coordinators and managers, on whether and how accommodations may be provided;

h. Assist the Director of Designation, Movement, and Sentence Computation to enable qualified offenders with disabilities to be placed in facilities appropriate for particular disabilities, consistent with safety and security;

i. Respond to Site Coordinator questions about an offender's request for accommodation after consulting with the Superintendent or District Manager as necessary and appropriate;

j. Review all offender/inmate appeals to the Commissioner and the corresponding responses, pursuant to this directive, and maintain a file of them;

k. Refer ADA policy questions that the ADA Director is unable to resolve, to the ADA Committee for their assistance;

l. Submit reports to the ADA Committee as required.

8. Role of All Other Staff

Although specific staff/contractor roles (e.g., Booking Officer, Shift Supervisor, Caseworker/PO, qualified health care professional, Site Coordinator) have certain responsibilities, any staff must respond to a request for accommodation from an offender/inmate.

a. They will provide *Attachment 2* (*Request for Reasonable Accommodation/Response Form*) and invite/assist the offender/inmate to complete the Request Section of the form. If the offender/inmate's request for accommodation is verbal, and they are unable to complete the Request Section themselves, staff will fill it out and check the verbal request box on the form.

b. If it is within the staff person's ability and authority and the request is for a reasonable accommodation, they will complete the Response Section on *Attachment 2*, take necessary action to facilitate the accommodation(s), and ensure distribution of copies of the form. (See form.)

c. They will refer any question they have regarding requests for accommodation to the ADA Site Coordinator for clarification and resolution.

d. When possible, all offender/inmate requests for accommodation will be handled by the individual first approached, within their ability and authority. When not possible, requests will be forwarded to a supervisor.

e. All offender/inmate requests for/responses to accommodation must be documented on *Attachment 2* and in electronic case notes.

9. The Ad-hoc ADA Committee

The Commissioner will establish and appoint an ad-hoc ADA Committee with members from both within and outside the Department. At a minimum there will be at least three (3) individuals representing the constituency of those offenders affected by ADA, including representatives from the Department of Mental Health, the Department of Aging and Independent Living, and DOC Special Education. The members will assist and advise the ADA Director as necessary. The Committee will meet at least annually to review policies and implementation of ADA. The Department will also seek outside expertise from other agencies or departments when needed.

10. Offender Screening and Disclosure

a. The Department will screen all offenders/inmates for barriers to program success and potential need for accommodation during the following:

- Initial Intake
- Medical and Mental Health Intake
- Education Enrollment
- Program Admission (by all providers for mandated contracted and Department programs)
- Offender Responsibility Plan Development
- Community Release Planning (including programming)

b. In addition to the above mandated screenings, an offender may request reasonable accommodations at any time while under supervision by or in custody of the Vermont Department of Corrections.

c. In accordance with this administrative directive and federal privacy standards (HIPAA), Department, staff who have become aware of an offender's disability will not disclose that status to other staff except as necessary to carry out the guidelines of this directive and/or as required to maintain safety and security. **NOTE: Staff will not disclose an offender's disability to other offenders for any reason.**

11. Notification to Offenders/Inmates

Posters, brochures, etc., notifying offenders/inmates of the provisions of the ADA and reasonable accommodation, will be conspicuously displayed in reception areas and other areas accessible to offenders/inmates in all facilities and field offices. Staff will also utilize appropriate notification methods (e.g., a verbal description) which are accessible to all offenders/inmates. In addition, ADA policy and reasonable accommodation will be discussed with each offender/inmate as indicated in previous sections of this directive and will be available in the statewide facility Offender Handbook.

12. Reasonable Accommodation Process

a. All offenders/inmates will have access to any necessary forms to request accommodation pursuant to this administrative directive; e.g., in the booking office, Caseworker/PO offices, common areas, inmate law library, facility medical office.

b. All offenders/inmates who make *verbal* requests for accommodation based on disability will be directed by all Department staff and contractors to this administrative directive and will be provided a copy of the current form for making the formal request for an accommodation (*Request for Reasonable Accommodation, Attachment 2*).

c. Offender/inmate requests for accommodations will be made to the Caseworker/PO or other staff using *Attachment 2*. Offenders/inmates who have difficulty in communicating, reading, understanding, or writing should contact their assigned Caseworker or Probation Officer for assistance in completing the *Request for Reasonable Accommodation.*

d. All offender/inmate requests for/responses to accommodation must be documented.

e. Requests for accommodations will be acted upon within ten (10) business days of receipt (day one is the first full business day after receipt) of the signed *Request form,* or less if necessary for an offender's/inmate's health and/or safety, by either granting the request, denying it, or granting it with modification. In situations where further evaluation is required, this process may take more than ten (10) business days to resolve.

f. In making a decision, the Department will take into consideration the choice of accommodation made by, or on behalf of, the offender/inmate. Facility or field site staff/contractors may grant an alternative accommodation if such a choice provides the same or comparable level of accommodation.

g. If for some reason the request for an accommodation is due to a disability that is unknown, a medical, psychological, or other specific examination or assessment may be necessary to verify the existence of a disability that is not obvious, or to verify the severity of the limitations. If further examinations or assessments are required, a decision regarding the accommodation will be made after medical verification or other specific assessment is obtained.

h. The offender/inmate will be notified in writing of the determination of their request within ten (10) business days, or will be notified in writing if additional time is necessary and approximately how much time will be necessary and why. Offenders/inmates will also be notified of their right to seek review of the decisions. A copy of these notifications will be sent to the Department ADA Director.

13. Appeal/Grievance Procedure

a. Any offender/inmate who disagrees with a decision (denial or modification) by the Department ADA Director on their request for a reasonable accommodation may submit/file an appeal and send it directly to the Commissioner on *Attachment 5, Accommodation Decision Appeal to Commissioner* form.

b. Any offender/inmate who feels they have been discriminated against based on a disability may submit a formal grievance pursuant to Administrative Directive *#320.01, Offender Grievance System.*

TRAINING

The DOC Human Resource Development Unit (HRD), Vermont Protection and Advocacy, the Human Rights Commission, and the Disability Law Project of Vermont Legal Aid have cooperatively developed an ADA training curriculum for all DOC employees. HRD will develop and deliver training to staff to ensure that they are aware of the guidelines in this administrative directive and their duties, if any, related to it. All new security officers will receive training on this directive as a component of their Vermont Correctional Academy training. Local Managers will ensure that staff take the self-administered training component required.

QUALITY ASSURANCE

The ADA Director will develop and implement a system of reviewing, recording, and monitoring ADA issues and will make recommendations for corrective action as appropriate. The Director will report annually to the Executive Management Team and the Ad-hoc ADA Committee on the results of the review. Local Managers will inform the ADA Director immediately if there is a change in the assigned ADA Site Coordinator.

ATTACHMENT 1 - SAMPLE

VERMONT DEPARTMENT OF CORRECTIONS

OFFENDER/INMATE ORIENTATION TO ADA

If you have a disability (*defined below*), you have the right to request *reasonable accommodations* in order to make programs and services you are receiving, or will receive, more accessible and usable to you. Under the ADA, an individual with a disability is a person who has:

- A physical or mental impairment that substantially limits one or more major life activities, such as: walking, talking, hearing, seeing, caring for oneself, or working;
- A record of such impairment; or
- Is regarded as having such an impairment.

A *reasonable accommodation* is any change in the environment or the way in which tasks are completed that allows you to participate in the program or service. Accommodating a disability is always evaluated in the context of it not being an undue burden on the Department, not jeopardizing safety or security, or not resulting in a fundamental alteration in the nature of a program or activity. A qualified individual with a disability is a person with a disability who, with the assistance of a reasonable accommodation, is able to meet the essential eligibility requirements for the receipt of services or the participation in programs or activities.

How to Ask for a Reasonable Accommodation

If you want or need a reasonable accommodation, ask any staff for a form to fill out (*Request for Reasonable Accommodation*). Fill out the Request Section of the form, sign, and date it. If you need help filling it out, ask a staff person. Your request will be reviewed and responded to within ten (10) business days after staff receipt of the request (unless a medical or other evaluation is needed to make a decision about the need for the accommodation). You will receive the decision in writing.

How to Make Complaints/Seek Review

If your request for accommodation is denied or modified by the Department's ADA Director, or you disagree with the decision, you have the right to file an appeal to the Commissioner by filling out the *ADA Decision Appeal to Commissioner Form* which any staff can give you. If you believe you were discriminated against because of your disability, you may file a formal grievance per *Department Directive #320.01, Offender Grievance System.*

By signing below, you are stating that you have been oriented & understand your rights under the Americans with Disabilities Act while in the custody and/or supervision of the Vermont Department of Corrections. ☐ **At this time I do *not* request a reasonable accommodation.**

Offender/Inmate Printed Name (*above*)	
Offender/Inmate Signature (*above*)	Date:
Staff Signature:	Date:
If you do want an accommodation, check and sign below:	
☐ I request a reasonable accommodation. ☐ I have been given a *Request Form* to complete.	
Offender/Inmate Signature (*above*)	Date:
Staff Signature:	Date:

If you have any questions about your rights, please ask any staff member for assistance.

ATTACHMENT 2 – SAMPLE

VERMONT DEPARTMENT OF CORRECTIONS - ADA
REQUEST FOR REASONABLE ACCOMMODATION/RESPONSE FORM

I. REQUEST	
Offender/Inmate Name: *(please print)*	
Date of Birth:	
Site (Facility or Field Office):	

ADA Accommodation Requested/Needed: *(Answer the following questions if that is helpful to you.)*

1. What is the disability or impairment that requires an accommodation?

_____

2. What accommodation do you think you need? _____

_____

3. Why do you think that accommodation will help solve the problem?

_____

_____

(Continue on back if necessary.)

Offender/Inmate Signature		***Date***	
Staff or QHCP Who Received Request *(Print name & title))* **Request was verbal:** ☐ *(check)*		***Date Received***	

II. RESPONSE ***Staff return this form to Local ADA Site Coordinator.)***

The reasonable accommodation(s) requested above has (have) been:

☐ **Approved as Requested** ☐ **Modified (Approved)** **State reason why below.** ☐ **Denied** **State reason why below.**

Individualized Accommodation made, modified/denied:

_____

_____

_____

Other Comments: _____

Staff/QHCP: _____ _____ **Date:**_____

(Print Name) ***(Signature)***

(Continue on back if necessary.)

ADA Site Coordinator Review/Signature: _____ **Date:** _____

If approved, distribute copies. ***If modified or denied, send to ADA Director.***

ADA Central Director Review: _____ **Date:** _____

(Signature)

Agree with Denial or Modification: ☐ **Yes** ☐ **No**

cc: Medical File, Offender/Inmate File, Offender/Inmate, ADA Site Coordinator, Superintendent/District Manager, Caseworker/ PO, ADA Director

Rev. 2/2010

ATTACHMENT 3 – SAMPLE

VERMONT DEPARTMENT OF CORRECTIONS

ADA ACCOMMODATION NOTIFICATION TO FACILITY STAFF

ADA Accommodation *(Maintain in Unit) - This form must accompany the inmate in all relocations of housing assignment or facility, or during transport or transfer. The form is filled out by the individual who approves the accommodation on Attachment 2.*

The following accommodation(s) is being provided for:

Inmate Name: _____

DOB: _____ **Facility:** _____

Description of Accommodation: _____

_____

_____

_____

Start Date: _____

Expiration Date (if relevant): _____

When needed: _____

Where: _____

How: _____

Frequency: _____

By Whom: _____

COMMENTS: _____

_____

_____

_____

Staff/QHCP Signature: _____ **Date:** _____

ADA Site Coordinator Signature: _____ **Date:** _____ **Shift**

Supervisor Signature: _____ **Date:** _____

Cc: Medical File, Shift Supervisor, Unit Officer, Caseworker, Inmate, Inmate File, Supt., ADA Site Coordinator 12.09

ATTACHMENT 4 – SAMPLE

VERMONT DEPARTMENT OF CORRECTIONS

PROGRAM SERVICES DISABILITY SCREENING QUESTIONNAIRE INTERVIEWER INSTRUCTION SHEET

An individual with a disability is defined by the ADA as:

- a person who has a physical or mental impairment that substantially limits one or more major life activities,
- a person who has a history or record of such an impairment, or
- a person who is perceived by others as having such an impairment.

This screening tool is to be administered as part of an intake process for admission to all DOC mandatory needs-reducing programs. There are a range of questions to identify disabilities, which may need to be addressed for program participation. Some questions are directed to the participant, and some are indirect about services, which may reveal a disability.

This screening tool is intended to be an interactive process. The interviewer will administer the questions to the participant verbally. Be sure to tell the participant that you need to know this information in order to determine if DOC needs to provide special assistance/accommodations to the participant.

Be sure to ask the participant to answer the questions to the best of their ability. If further assistance is needed, please refer to the ADA Site Coordinator. There is space after each question to record other indicators.

Examples of Other Indicators: (These may come from records you review, an interview with the offender, or observations that may not be obtained through the screening tool.)

- former resident of the Vermont State Hospital, Brandon Training School, a Group Home, or Intermediate Care Facility for People with Developmental Disabilities;
- over-reacting to a situation;
- making statements that do not make sense, such as inappropriate use of clichés;
- limited vocabulary;
- has a case manager, respite worker, group home manager, or other such assistance;
- has extreme difficulty understanding consequences.

IMPORTANT: The goal is to determine if the mandated program can accommodate any identified disability in order for the offender to have a reasonable opportunity to successfully complete the program. **If the offender responds "yes" to questions #2 or #3 under Direct Questions, or "yes" to questions #2, 4, 5, 6, 16, or 17 under Indirect Questions, the staff person administering the questionnaire must do the following:**

1. **Gather any supplemental information besides the responses to this questionnaire; for example, information from medical/mental health staff at the site, development of the ORP, an LSI interview, etc.;**
2. **Consult with the mandated program supervisor(s) and the ADA Site Coordinator; include a security supervisor or medical/mental health staff, if appropriate;**
3. **If a program accommodation is needed, document on *Attachment 2* the accommodation recommended and accepted, or develop an alternative program recommendation.**

4. **Send the recommended program accommodation or alternative program recommendation to the central ADA Director for review and to the Program Services Executive or designee for final approval.**

VERMONT DEPARTMENT OF CORRECTIONS
Program Services Disability Screening Questions

Note: This questionnaire is given only to offenders with mandated needs-reducing programming.

A. Direct Questions	Yes	No
1. Do you have any disabilities? **If so, please describe them:** **Other Indicators:**	☐	☐
***2. Do you have mental or physical conditions that cause you difficulty in performing routine tasks?** **If so, please describe them:** **Other Indicators:**	☐	☐
***3. Do you have a medical or mental health condition or problems learning that makes it hard for you to do important things?** **If so, please describe them:** **Other Indicators:**	☐	☐

B. Indirect Questions	Yes	No
1. What kind of work do you do? **Other Indicators:**		
***2. Have you ever received Social Security (i.e., SSI or SSDI)?** **Other Indicators:**	☐	☐
3. Have you received money from the government or medical insurance because of your medical or mental health conditions? **Other Indicators:**	☐	☐

*4. Do you have a guardian or rep payee? Other Indicators:	☐	☐
*5. Were you ever in Special Education classes while in school? Other Indicators:	☐	☐
*6. Were you ever on an IEP plan for special services? If so, do you know what your disability is? If so, please describe it. Other Indicators:	☐ ☐	☐ ☐
7. Were you ever on a 504 plan for special accommodations? If so, do you know what your disability is? If so, please describe it. Other Indicators:	☐ ☐	☐ ☐
8. Do you have difficulty reading? Other Indicators:	☐	☐
9. Do you have difficulty writing? Other Indicators:	☐	☐
10. Do you have difficulty understanding directions? Other Indicators:	☐	☐
11. Has someone told you that you have a learning disability? Other Indicators:	☐	☐
12. Do you have a check book? If so, do you write your own checks? Other Indicators:	☐ ☐	☐ ☐
13. Does someone help you pay your bills? Other Indicators:	☐	☐
14. Does someone help you manage your money? Other Indicators:	☐	☐
15. Does someone take care of other things for you?	☐	☐

Other Indicators:		
***16. Have you ever had an injury to your head or brain which resulted in loss of consciousness and/or reoccurring headaches, dizziness, irritability, confusion or memory loss?** **Other Indicators:**	☐	☐
***17. Have you ever been told that you have had a traumatic brain injury (TBI)?** **Other Indicators:**	☐	☐
	Yes	**No**
18. Have you ever worked with Vocational Rehabilitation (Voc Rehab) services? **If so, for what?** **Other Indicators:**	☐	☐
19. Have you ever received help from Home Health or the Visiting Nurses Association? **Other Indicators:**	☐	☐
20. Do you have any ongoing health conditions? **If so, was there a disability?** **Other Indicators:**	☐ ☐	☐ ☐
21. Do you have any physical or medical problems, such as need to use a cane, trouble with hands/arms, or other conditions such as heart problems? **If so, please describe them.** **Other Indicators:**	☐	☐
22. Do you notice any trouble hearing what is being said, particularly in a group? **Other Indicators:**	☐	☐
23. Do you have any other troubles with your vision? **If so, please describe them.** **Other Indicators:**	☐	☐
24. Do you have back pain when sitting for a long period of time? **Other Indicators:**	☐	☐
25. Do you have constant or frequent pain? **Other Indicators:**	☐	☐

26. Have you ever been told that you have depression or a mental health problem? **If so, when?** **Other Indicators:**	☐	☐
27. Have you ever seen a counselor? **If so, when and for what?** **Other Indicators:**	☐	☐
28. Have you ever been treated for mental health problems in a hospital? **Other Indicators:**	☐	☐

Modified Sprint (Sprint-4) PTSD Screen ©		
If at any time you have experienced or witnessed a traumatic event, which involves loss of life, serious injury or threat of either… **These questions are to ask about things you may have felt most days in the past week:**	**Yes**	**No**
1. Have you been bothered by unwanted memories, nightmares, or reminders of this event?	☐	☐
2. Have you been making an effort to avoid thinking or talking about this event, or doing things which remind you of what happened?	☐	☐
3. Have you lost enjoyment for things, kept your distance from people, or found it difficult to experience feelings?	☐	☐
4. Have you been bothered by poor sleep, poor concentration, jumpiness, or feeling watchful around you?	☐	☐

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Offender Last Name *First Name* *MI* *Date of Birth*

Offender Signature: *Date:*

Name of Interviewer: *Title:*

Interviewer Signature: *Date:*

Additional Comments:

Cc: Offender file, Caseworker/PO, medical file (under MH section)
If accommodation or consult needed, send to ADA Site Coordinator and Program Facilitator *Rev. 12.09*

ATTACHMENT 5 - SAMPLE

VERMONT DEPARTMENT OF CORRECTIONS
ACCOMMODATION DECISION APPEAL TO COMMISSIONER

Facility: *Field Office:*

You may use this form to appeal to the Commissioner of Corrections if the ADA Director agrees that your request for a reasonable accommodation should be modified or denied. If you have your original *Request for Reasonable Accommodation/Response form,* please attach it and any other documentation.

State briefly why you are not satisfied with the response to your request for reasonable accommodation, which was dated:_____(*Fill in date.*)

(Your signature) (Print your name & DOB)

Date your appeal is submitted: _____

Mail to the Commissioner of Corrections at: 103 South Main Street, Waterbury, Vermont 05671-1001

Cc: Offender/Inmate; Offender/Inmate File, ADA Site Coordinator, ADA Director *3.09*

AGENCY OF HUMAN SERVICES

STANDARDS FOR TRANSLATION OF VITAL DOCUMENTS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

At a minimum, departments and offices within the Agency of Human Services should translate vital documents for persons with limited English proficiency. Departments and offices **must translate** all vital documents that a department or office is legally required to provide to an applicant or recipient about, among other things, information about eligibility, coverage, responsibility for payment of premiums and other costs, and fair hearings and other forms of review. On a case-by-case basis, other forms may need to be translated in addition to the vital documents. The following list provides examples of vital documents.

1. Consent Forms

2. Applications (to make available to the applicant; the application in the file would be completed in English by the worker)

3. Appeal Rights Information

4. Letters about Appointments (times and places of meetings, etc.)

5. Agreements, Acceptances of Services, Notices of Understanding, etc.

6. Notices of Decision

7. Program Requirements (requirements set forth in forms, brochures, etc., that affect a client's benefits, services, participation in a program, etc., especially if non-cooperation with the requirements has a consequence)

8. Regulations, if applicable (i.e., if participants or clients are given copies of regulations and expected to know and follow them, as they are in DAIL's Attendant Services Program, the regulations should be made available in the relevant language)

Departments and offices often send out other types of documents. For example, departments and offices may measure effectiveness through feedback supplied in surveys (routine, periodic, client and/or family satisfaction surveys, etc.). This type of document, while non-vital, is important. Departments and offices may wish to pay for the translation of this type of document.

The four most common languages in Vermont requiring translation are French, Spanish, Serbo-Croatian, and Vietnamese, followed by Russian and Swahili. Please refer to the AHS LEP resource sheet on how to arrange for the translation of the document in question with the contractor.