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			OPI:	DIRECTOR	
			REVIEW DATE:	August 26, 2014	
			Approving Authority	Thomas Faust Director	
SUBJECT:		ACCOMMODATING PERSONS WITH DISABILITIES			
NUMBER:		3800.2B			
Attachments:		Attachment A- Inmate Request Form			

SUMMARY OF CHANGES:

Section	Change
Revisions	<i>Major revisions made throughout policy.</i>

APPROVED:



Thomas Faust, Director

8/26/2013

Date Signed

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1. **PURPOSE AND SCOPE.** To provide guidelines for reasonably accommodating individuals with disabilities within the DC Department of Corrections facilities (DOC) and facilities who maintain contractual agreements with DOC.
2. **POLICY.** It is DOC policy to:
 - a. Prohibit discrimination in the reasonable accommodation and provision of work, services, programs, and activities that are accessible and usable by qualified staff, volunteers, visitors and inmates with disabilities. A disability is a physical or mental impairment that substantially limits one or more major life activities; a record (or past history) of such an impairment; or being regarded as having a disability. Major life activities can include, but are not limited to: caring for oneself, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. Qualified individuals with a disability means an individual 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 public entity.
 - b. DOC shall post and maintain signs of conspicuous size and print at all facilities, and wherever other posters or flyers are required by law to be posted. Signs shall include a notice of non-discrimination based upon disabilities, and a list of available auxiliary services and contact information for further assistance.
 - c. Make reasonable accommodation to ensure all parts of the facility that are accessible to the public are accessible and usable by staff , inmates, and visitors with disabilities by addressing:
 - 1) Employment Issues – hiring, reasonable accommodations, personnel policies.
 - 2) Inmate Issues – access to education, jobs, programs; appropriately trained individuals assigned to assist disabled inmates who cannot otherwise perform basic life functions; and education, equipment, facilities and support necessary to perform self-care and personal hygiene in a reasonably private environment.

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- 3) Facility Issues – accessible routes into the facility and to program areas; inmate housing accommodations.

3. NOTICE OF NON-DISCRIMINATION

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
- b. Inmates with disabilities, including temporary disabilities, are housed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, is designed for their use and provides for integration with other inmates. Programs and service areas are accessible to inmates with disabilities who reside in the facility.
- c. Discrimination because of a disability is prohibited in the provision of services, programs and activities.

4. OBJECTIVES

- a. DOC shall make reasonable accommodations to ensure that all parts of its facilities accessible to the public are accessible and usable by persons with disabilities.
- b. Inmates with disabilities, including temporary disabilities, are housed in a manner that provides for their safety and security, and provides for integration with other inmates.
- c. Programs and service areas are accessible to inmates with disabilities who reside in the facility.
- d. Inmates with disabilities shall receive the education, programming, equipment, facilities and support necessary to function within the CDF and DOC contract facilities.

5. RESPONSIBILITIES

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- a. Americans with Disabilities Act (ADA) Coordinator. The ADA Coordinator shall:
 - 1) Provide oversight and technical assistance for administration and implementation of this program within DOC facilities and compliance within DOC contract facilities.
 - 2) Abate any legitimate reasonable accommodation request or claim by anyone accessing DOC facilities.
- b. Health Services Administrator. The Health Services Administrator shall provide administration and monitoring for any contracted health service providers' compliance with federal and local laws and regulations, this directive and the contractual agreement.

6. DIRECTIVES AFFECTED

- a. Rescinded
 - 1) PS 3800.2A Accommodating Persons with Disabilities (2/29/08)
- b. Referenced
 - 1) PS 1220.1 Customer Service
 - 2) PS 2920.1 Fire Safety Inspections and Abatement
 - 3) PS 2920.5 Emergency Response and Evacuation Plan
 - 4) PP 4022.1 Community Correctional Center Disciplinary Procedures
 - 5) PS 4030.1 Inmate Grievance Procedures (IGP)
 - 6) PP 4070.1 Inmate Telephone Access
 - 7) PP 4080.2 Video Visitation Center/Special Visits
 - 8) PS 4110.7 Educational Services
 - 9) TRM 4110.7 Educational Services – Special Education

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10) PS 4210.2 Inmate Institutional Work Program

11) PM 5300.1 Inmate Disciplinary and Administrative Housing
Hearing Procedures

7. **AUTHORITY**

- a. Title 2 of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. § 12101 et seq., and 28 C.F.R. Part 35
- b. ADA Amendments Act of 2008, PL 110-325 (Sept 25, 2008).
- c. D.C. Code Title 7, Chapter 12, Mental Health Information
- d. Section 504 of the Rehabilitation Act of 1971, 29 U.S.C. § 701 et seq.
- e. Individuals with Disabilities Education Act, 34 C.F.R. Part 300
- f. D.C. Code § 21-2201 et seq., Health Care Decisions
- g. DC Code Title 2, Chapter 19, Subtitle I, General Provisions, and Subtitle II, Language Access
- h. Architectural Barriers Act of 1968, 42 U.S.C. 4151-4157
- i. *Uniform Federal Accessibility Standards (UFAS)*
- j. 2010 ADA Accessibility Standards for Accessible Design
- k. DC Personnel Manual, Chapter 16, General Discipline and Grievances
- l. Collective Bargaining Agreement between District of Columbia Department of Corrections and Fraternal Order of Police, Department of Corrections Labor Committee effective December 19, 2002 through September 30, 2005
- m. D.C. Code § 2-1431.01 et seq., Disability Rights Protection

8. **STANDARDS**

- a. American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-5C-06, 4-ALDF-6B-94, 4-ALDF-6B-05,

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4-ALDF-6B-06, 4-ALDF-6B-07, 4-ALDF-6B-08 and 4-ALDF-7E-05

- b. National Commission on Correctional Health Care Standards for Health Services in Prisons 1997: P-08, P-31, P-34, P-51 and P-59.

9. DOC RESPONSE TO GENERAL ISSUES. DOC shall:

- a. Provide reasonable modifications to rules, policies or practices to enable persons with disabilities to participate in the programs, services, and activities of the facility.
- b. Prohibit retaliation against persons who exercise their rights under the Americans with Disabilities Act (ADA); DOC shall not coerce persons into not exercising their ADA rights; and DOC shall not impose a surcharge for anything required by ADA.
- c. Take practical steps and adjustments to provide an accommodation for a qualified employee's disability unless the accommodation would cause the employer significant difficulty and expense in accordance with guidelines. A qualified employee is a person with a disability who, with reasonable accommodation, can perform work responsibilities.
- d. Furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, services, programs or activities conducted by DOC. However, nothing in this policy shall require that an electronic device or auxiliary aid be used when or where its use may pose security concerns.
- e. Staff and Inmate Training and Orientation
 - 1) *Employee Training.* All DOC employees, contract workers and volunteers who provide programs, benefits or services to inmates shall receive orientation and annual training regarding issues and responsibilities related to staff, inmates and visitors with disabilities.
 - 2) *Intake and Medical Orientation*
 - a) Intake staff shall provide an overview of accommodations at the CDF. This information shall be included in the inmate handbook.
 - b) When a literacy, language or vision problems prevents an inmate from understanding the written materials, a case manager, translator or interpreter shall assist the inmate.

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3) *Medical Orientation.* The health care provider shall advise inmates of medical and medically related services for inmates who have disabilities and how to access them.

- f. Provide a grievance program to investigate and respond to complaints regarding ADA related issues filed by employment applicants, employees, inmates, volunteers and visitors.
- g. The DOC Case Manager or IGP Coordinator shall provide appropriate assistance to an inmate with a disability to access the grievance program.

10. PUBLIC ACCOMMODATIONS

- a. *Parking.* CDF provides parking spaces on the visitor's entrance side of the facility that accommodate cars and vans equipped with wheel chair lifts.
- b. *Visitors Control Entrance*
 - 1) The visitor's entrance is wheel chair accessible. Staff and visitors who require this accommodation shall use the visitor's entrance.
 - 2) The Warden shall develop written procedures to ensure that accessibility during non-visiting hours is readily available.
- c. *Elevator.* The elevator leading to visiting halls is ADA compliant.
- d. *Search Procedures.* The metal detector at the visitor's entrance is wheel chair accessible. Visitors may be subject to further search via a hand-held wand metal detector.
- e. *Registration Counter.* The visitor's check-in process is accessible to the visitor's wheel chair.
- f. *Restrooms.* DOC shall ensure it has a restroom for visitors that is wheel chair accessible.
- g. *Visiting Booths/Telephones.* Persons in wheel chairs can access a visiting booth and telephone used to converse with an inmate during non-contact visits.
- h. *Visiting Hall Attorney Interview Rooms.* Persons in wheel chairs can access a visitor interview rooms used for legal and contact visits.
- i. *Drinking Fountains.* A wheel chair accessible water fountain shall be provided in visiting areas.
- j. Public Access at the Frank D. Reeves Building (DOC Headquarters)

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- 1) Car and van accessible parking is located inside of the Reeves Center Parking Garage.
- 2) Employees who require such accommodation shall display disability placards inside of their vehicles and park in the designated areas.
- 3) Visitors who do not require parking can enter the Reeves Center at street level. The Reeves Center is wheelchair accessible.
- 4) If the visitor has difficulties accessing the DOC Administrative Suite at the Reeves Center due to a disability, the visitor may approach the Security Desk for assistance.

k. Emergency Evacuation

- 1) Procedures for persons with disabilities are provided in PS 2920.5, *Emergency Response and Evacuation Plan*.
- 2) Designated Area(s) of Rescue Assistance shall be conspicuously identified through posted signs at the CDF and Administrative Headquarters.
- 3) DOC employees and inmates shall receive orientation regarding emergency evacuation procedures. Staff and inmates shall participate in drills as required.

11. EMPLOYEE REQUEST FOR AN ACCOMMODATION

- a. It shall be the employee's responsibility to provide the ADA Coordinator with all medical documentation verifying the need for an accommodation.
- b. The ADA Coordinator, in conjunction with Human Resource Management Division (HRMD), shall make every reasonable attempt to assist in accommodating qualified employees with a disability, unless it causes DOC an undue hardship.

12. ALTERNATIVE EMPLOYEE ACCOMMODATION

- a. Should DOC be unable to accommodate a qualified employee, HRMD shall request the employee to submit an updated employment application (SF-171). With the employee's written consent, HRMD shall submit the SF-171 along with the employee's medical documentation that outlines the employee's disability to the DC Department of Human Resources, Rehabilitation Services Administration for determination of availability of another position within the

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District Government which the employee qualifies for and can be reassigned to. This position must be compatible with the employee's disability.

- b. Upon receipt of notice from the DC Department of Human Resources (DCHR) that no other employment opportunities are compatible with the employee's disability or available, HRMD shall prepare a letter notifying the employee of his/her options to include:
 - 1) Applying for disability retirement;
 - 2) Seeking other nongovernmental employment opportunities compatible with the individual's disability; or
 - 3) Returning to full duty at DOC if the employee's medical certification indicates the employee is able to perform assigned duties without an accommodation for the individual's disability.

13. **STORAGE AND CONFIDENTIALITY OF EMPLOYEE MEDICAL INFORMATION.**

Information obtained as part of a medical examination or inquiry regarding the medical condition or history of an employee shall be maintained in a separate medical file and treated as a confidential medical record.

14. **EMPLOYEE GRIEVANCE PROCEDURES**

- a. If the employee chooses to exercise none of the employment options provided in Section 12(b), HRMD may, pursuant to the *District Personnel Manual (DPM) Chapter 16 General Discipline and Grievances*, initiate action for cause against the employee, based on his/her inability to satisfactorily perform one or more major duties of his/her position. The supervisor shall coordinate this action with the HRMD.
- b. Grievances of employment discrimination filed under Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act shall be filed in accordance with procedures contained in Sections 1630-1636 of the District Personnel Manual or provisions in the Collective Bargaining Agreement.

15. **MEDICAL AND MENTAL HEALTH INTAKE SCREENING AND APPRAISALS**

- a. Pursuant to PM 6000.1, *Medical Management*, upon an individual's commitment to DOC custody, qualified health care personnel shall conduct medical and mental health screenings and assessments.

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- b. Inmates shall be assessed to determine whether a disability exists.

16. HOUSING AND FACILITY PLACEMENT EVALUATIONS

- a. Inmates with disabilities, including temporary disabilities, shall be housed in a manner that provides for their safety and security.
- b. Any inmate whose disability arises following intake or who was not identified during the intake process may self-identify to the ADA Coordinator or facility designee.
- c. A health services clinician shall determine whether an inmate's disabling condition is severe enough to require transfer to the CCA/CTF. The inmate shall receive appropriate treatment and restrictions as determined to be medically necessary.
- d. A request for accommodation may be denied when it would pose a serious risk to the safety or security of the facility, DOC employees, contract workers, and volunteers, or the public; or when the request would adversely impact other legitimate penological financial or administrative interests, including deterring crime and maintaining offender discipline. In all determinations of reasonable accommodation, public safety and the health, safety, and security of all offenders and DOC employees, contract workers, volunteers, visitors and the community shall remain the overriding consideration.
- e. DOC need not take an action to provide accessibility to a service, program, or activity if it can prove that the action would impose an undue financial or administrative burden on the agency, or would fundamentally alter the nature of the service, program, or activity.

17. **PHYSICALLY AND MENTALLY ABLE.** Inmates with disabilities will be employed when they, with or without reasonable accommodation, can perform the essential functions of the work assignment.

18. INMATE REQUEST FOR AN ACCOMMODATION

- a. To request an accommodation, the inmate shall complete an Inmate Request Form (Attachment A) informing the case manager of the disability. The Case Manager shall determine if the request is valid and meets the "Reasonable Accommodation" standard. The Case Manager shall submit a recommendation along with the completed Inmate Request Form and submit to the ADA Coordinator for consideration.

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- b. The request for accommodation shall specifically state the inmate's alleged disability or disabilities; the major life activity that their condition places a substantial limitation upon; the specific accommodation(s) requested; and the reason the accommodations are needed. One additional page may be attached to the request if necessary.
 - c. An inmate may request additional accommodations at any time if the inmate feels a new disability has arisen; the current disability has worsened; for access to a program, benefit or service or any other legitimate reason.
19. **DETERMINATION OF DISABILITY.** The DOC Health Services Administrator will be ultimately responsible for any and all disability determinations of inmates, after consulting with the DOC medical services provider and the ADA Coordinator.
- a. The ADA Coordinator or facility designee shall refer an inmate's Request for Accommodation to the health services provider for evaluation. The health services provider shall forward findings and recommendations to the DOC Health Services Administrator.
 - b. The DOC Health Services Administrator may adopt, revise or disagree with the health care provider's findings and may request further testing or information.
 - c. The DOC Health Services Administrator shall provide the ADA Coordinator with the final disability determination at which time the ADA Coordinator, in conjunction with the CDF Warden or designee shall prepare an accommodation resolution(s).
 - d. The ADA Coordinator or designee shall provide oversight and technical assistance to ensure accommodations are provided in a timely manner.
 - e. The inmate shall receive notice of the accommodations resolution(s).
20. **DISPUTES INVOLVING THE ACCOMMODATION RESOLUTION.** An inmate may file a grievance pursuant to PS 4030.1, *Inmate Grievance Procedures*. The inmate does not have to pursue the informal resolution portion of the IGP process when the matter is to dispute ADA accommodations resolution or provision of services ordered in the ADA accommodation resolution.

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21. **ADMINISTRATIVE SEGREGATION AND DISCIPLINE.** Administrative and disciplinary segregation shall be conducted consistent with DOC policy PM 5300.1, *Inmate Disciplinary and Administrative Housing Hearings Procedures*, PS 4022.1, *CCC Disciplinary Procedures* (similar policies and procedures in contract facilities) and any other applicable guidelines for administrative and due process for inmates.
- a. Inmates with mental health disabilities may be placed in Administrative Segregation in the CDF Mental Health Unit or otherwise placed in housing appropriate to their needs.
 - b. Inmates may also be placed in Administrative Segregation because of unusual behavior or for behavioral problems that do not warrant discipline or mental health unit placement. Inmates may be placed in Administrative Segregation when other significant incidents occur.
 - c. An inmate's mental or physical condition is not a defense to disciplinary sanctions but this should be taken into consideration when imposing a sanction. The Warden or designee and the responsible clinician or designee shall consult prior to taking disciplinary action against chronically ill, physically disabled, geriatric, seriously mentally ill, or developmentally disabled inmates. When it appears that the inmate may not be mentally capable of understanding the nature of the charges and/or presenting or assisting in the presentation of defense to the charges, the Hearing Officer/Board shall consult with mental health professionals.
22. **PROGRAMS AND SERVICES.** Programs and services generally available to inmates must also be made available to inmates with disabilities. This includes educational services, health care, exercise, television, travel and communication.
23. **ASSISTED CARE.** The DOC health services contractor shall provide appropriately trained employees to assist inmates with disabilities who cannot otherwise perform basic life functions.
24. **SELF-CARE.** DOC shall ensure that, consistent with security requirements, inmates with disabilities receive adequate support and reasonable privacy in order to perform self-care and personal hygiene.
25. **INFORMED CONSENT.** DOC shall ensure that health care services are rendered according to federal requirements, District law(s) and ACA standards and shall be presented in the language understood by the inmate. When medical care is rendered without an inmate's consent, it shall be done in accordance with federal and local laws and regulations. Procedures are described in PM 6000.1, *Medical*

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Management.

26. HEALTH CARE DECISIONS

- a. Health care decisions on behalf of inmates who are incapacitated shall be conducted pursuant to PM 6000.1, *Medical Management*.
- b. The health care provider who is treating or providing services to the incapacitated inmate at the time of the health care decision, DOC contracted health care providers, and all DOC employees are prohibited from authorizing, granting, refusing or withdrawing consent on behalf of the inmate with respect to a decision regarding health care services, treatments or procedures.

27. **ADAPTIVE MEDICAL AND DENTAL SERVICES.** The health care provider shall provide assessments of inmates for adaptive medical and dental devices. Devices include, but are not limited to eyeglasses, hearing aids, dentures, wheelchairs or other prosthetic devices.

28. **EXERCISE.** DOC and contractors who house inmates on behalf of DOC shall ensure appropriate areas are available to meet exercise and physical therapy requirements of individual inmate treatment plans.

29. **ACCESSIBLE TRANSPORTATION.** DOC utilizes its wheel-chair accessible vehicle to transport inmates with this disability to court and medical appointments.

30. **AUXILIARY AIDS AND SERVICES.** DOC shall provide appropriate auxiliary aids and services to ensure effective communications with inmates. Auxiliary aids and services include qualified interpreters, note takers, transcription services, written materials, assistive listening devices, assistive listening systems, or other effective methods of making aurally delivered materials available to individuals who are deaf or hard of hearing.

31. WRITTEN COMMUNICATION SERVICES

- a. DOC shall provide reasonable auxiliary aids and services to ensure effective communication with inmates. DOC shall notify the individual through the exchange of a written note or standardized notice that a free, qualified sign language interpreter will be provided via videoconferencing (if the inmate desires).

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- b. If the individual expresses a preference for the use of written communication, the employee shall provide a pad and pen or pencil and shall communicate with the individual in writing and shall; permit the individual to communicate back to the employee in writing. DOC shall notify the individual of the available communication resources and the inmate's preference will be satisfied to the extent it is both possible and reasonable.
 - c. DOC will provide interpreters able to interpret effectively, accurately and impartially. Between the time an interpreter is requested and the time the service is provided, DOC will continue to try to communicate through other means to address any needs of the inmate.
 - d. DOC shall provide Telecommunications Typewriter (TTY) units to all inmates who are deaf and hard of hearing. Additionally, DOC shall make at least one TTY device available in each visiting area. TTY calls will be allowed to be no less than four (4) times longer than standard phone calls. Telecommunications Relay Services (TRS) must be made available to inmates.
32. **INTERPRETERS.** DOC shall ensure access to qualified sign language interpreters when appropriate. DOC may, but shall have no obligation to, hire or otherwise contract with qualified interpreters in a staff position.
- a. A qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.
 - b. A DOC employee should not be allowed to interpret if his or her presence poses a conflict of interest or raises confidentiality and privacy concerns.
 - c. The following list of circumstances where interpreters may be required is neither exhaustive nor mandatory, and shall not imply that there are not other circumstances when it may be appropriate to provide interpreters for effective communication. Except in the case of the initial intake, initial medical intake, emergency medical encounters, sick call, or other emergent encounters, the responsible employee shall request interpreter videoconferencing service via the AAS Coordinator three (3) business days in advance of the below activities:
 - 1) Initial intake;

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- 2) Classification processing;
 - 3) Regularly scheduled health care appointments and programs (medical, dental, visual, mental health, and drug and alcohol recovery services);
 - 4) Treatment and other formal programming;
 - 5) Educational classes and activities;
 - 6) Disciplinary board hearings;
 - 7) Criminal investigations (to the extent controlled by DOC);
 - 8) Classification review interviews, and
 - 9) Grievance interviews.
- d. Videoconferencing. This contract service provides off-site interpreters to assist inmates in their communication with DOC and contract employees at designated encounters.
- e. Other Means of Communication for Unscheduled Circumstances. Between the time that an interpreter is requested and the interpreter is contacted by means of videoconferencing service, DOC personnel shall continue to try to communicate with the inmate or visitor who is deaf or hard of hearing for such purposes and to the same extent as they would have communicated with the person but for the hearing impairment, using all available methods of communication.

33. TELECOMMUNICATIONS TYPEWRITERS (TTY)

- a. DOC shall promptly provide TTY units to all inmates who are deaf and hard of hearing in housing units.
- b. DOC shall make at least one TTY device available in each visiting area.
- c. Time limits on TTY calls. In light of the fact that telephone calls placed via a TTY unit take three to five times longer than telephone calls placed using standard voice telephone equipment, DOC shall not impose on TTY calls a time limit of less than four times the time allowed for voice telephone calls.
- d. Telecommunications Relay Services (TRS). TRS allows an individual who is

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deaf, hard of hearing, or speech disabled to communicate with a hearing person who does not have a TTY system. A Communications Assistant (CA) will place the call from the inmate who is typing the message using the DOC TTY phone, and speak the words to the individual receiving the call. The CA will then type the spoken words from that individual so the inmate can read the returned message. TRS calls from payphones are free of charge for local calls. TRS calls are available by dialing 711. Notice shall be posted near all pay telephones.

- e. Volume Control and Hearing Aid Compatible Telephones. DOC shall ensure that no less than twenty-five (25) percent of all of its pay telephones are equipped with volume control mechanisms. DOC shall ensure that volume control phones are dispersed among all pay telephones throughout DOC. DOC shall ensure that appropriate universal signs are displayed at each volume control telephone.

34. **VISUAL AND TACTILE ALARMS.** DOC shall provide visual and audible emergency alarms in rooms where inmates who are deaf or hard of hearing may reside or work.

- a. DOC shall provide visual and audible emergency alarms in designated areas.
- b. DOC shall place visual emergency alarms in rooms where inmates who are deaf or hard of hearing may reside alone or work alone to ensure that they will always be alerted when an emergency alarm is activated

35. **TELEVISIONS.** DOC shall provide and maintain closed captioned television decoders (or built-in decoder televisions) in television rooms to enable inmates who are deaf or hard of hearing to enjoy the same opportunity for television viewing as that afforded to other inmates.

Attachment

Attachment A - Inmate Request Form

