



TITLE	POLICY NUMBER	
Americans with Disabilities Act – Title II: Non-Discrimination on the Basis of Disability for Programs, Services, and Activities for DCS Service Recipients	DCS 17-03	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Office of Prevention	10/10/18	1

## **I. POLICY STATEMENT**

The Arizona Department of Child Safety (“DCS” or “the Department”) shall provide reasonable accommodations to enable persons with disabilities to participate in programs, services, and activities. This policy was developed to conform to and comply with Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. It ensures that individuals with disabilities shall not be excluded from participation in, be denied the benefit of, or be subjected to discrimination in any DCS programs, services, or activities.

Section 504 of the Rehabilitation Act prohibits discrimination in all federally funded programs and the operations of a department or agency of a state or local government that receives federal financial assistance. Precursor to the ADA, the Act applies to federal agencies, contractors, and recipients of federal financial assistance. Because of the nearly identical language and requirements in the Act and the ADA, this policy shall treat them the same, and references to the ADA shall include references to Section 504 unless otherwise specified.

## **II. APPLICABILITY**

This policy forbids unlawful discrimination by DCS against any disabled individual, including but not limited to children, parents (biological, foster, or adoptive), guardians, relatives, and placements. The services, programs, and activities of DCS include but are not limited to investigations, assessments, provision of in-home services, removal of children from their homes, case/service planning, visitation, guardianship, adoption,

foster care, and reunification services. When DCS programs are provided by contractors, it is the responsibility of the Department to ensure that contractors understand their obligations under the ADA, inform individuals about their rights under the ADA, and comply with the ADA.

Nothing contained in this policy shall be construed as interfering with or superseding State of Arizona or DCS policies or regulations that, pursuant to other federal or state laws, may provide rights or benefits greater than those required by Title II of the ADA or Section 504. Where multiple laws apply, DCS will apply whichever law provides the most rights or benefits.

Failure to comply with this policy may result in a review to identify the root cause of the non-compliance. Repeated or willful non-compliance may lead to appropriate action for DCS employees or contract termination for contractors.

### III. AUTHORITY

[Americans with Disabilities Act of 1990, As Amended](#)

[Americans with Disabilities Act Amendments Act of 2008](#)

[Americans with Disabilities Act Title II Regulations](#)

[A.R.S. § 41-1492](#)

[Protecting the Rights of Parents and Prospective Parents with Disabilities: Technical Assistance for State and Local Child Welfare Agencies and Courts under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act](#)

[Section 504 of the Rehabilitation Act of 1973](#)

[Web Content Accessibility Guidelines 2.0](#) World Wide Web Consortium

[28 CFR Part 35](#) Nondiscrimination on the Basis of Disability in State and Local Government Services

[45 CFR Part 84](#) Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance

## IV. DEFINITIONS

Accessibility: The concept that individuals with disabilities are able to independently acquire the same information, engage in the same interactions, and enjoy the same services within the same timeframe as individuals without disabilities, with substantially equivalent ease of use.

Accommodations: May include, but are not limited to:

- making reasonable accommodations in policies, practices, and procedures;
- furnishing, at no charge, auxiliary aids and services, which are not limited to equipment, devices, and materials in alternative formats;
- providing qualified interpreters or readers;
- making each program, service, or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals with disabilities requesting accommodations.

Note: DCS is not required to take any action that would result in a *fundamental alteration* (see definition below) in the nature of a program, service, or activity or is an *undue financial or administrative burden* (as defined below).

ADA Title II/LEP (Limited English Proficiency) Coordinator: The person within the DCS Office of Prevention responsible for coordinating implementation of ADA Title II/LEP requirements affecting service recipients within DCS and responding to technical questions from DCS employees related to this policy.

Americans with Disabilities Act (ADA): A comprehensive federal law passed in 1990 that prohibits discrimination on the basis of disability in employment, programs, and services provided by state and local governments; goods and services provided by private companies; commercial facilities; telecommunications and transportation.

Assistive device: A device that assists users in accomplishing day-to-day functions.

Auxiliary aids and services include the following:

- qualified interpreters on site or through video remote interpreting (VRI); 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 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 materials available to individuals with hearing impairments;

- qualified readers; taped texts; audio recordings; braille 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 with visual impairments;
- acquisition or modification of equipment or devices; and
- other similar services and actions.

Companion: A family member, friend, or associate of an individual seeking access to a DCS program, service, or activity, who along with the individual is an appropriate person with whom the program should communicate.

Direct threat: A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

Disability: The condition of an individual who:

- has a physical or mental impairment that substantially limits one or more of the major life activities;
- has a history of such impairment;
- is regarded as having such an impairment; an individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. The term “being regarded as having such impairment” does not apply to impairments that are transitory and minor.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. The positive effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

Electronic and information technology: Includes information technology and any equipment or interconnected system or subsystem of equipment used in the creation, conversion, or duplication of data or information. This term includes, but is not limited to, the internet and intranet websites, content delivered in digital form, electronic books and electronic book reading systems, search engines and databases, learning management systems, classroom technology and multimedia, personal response systems (“clickers”), and office equipment such as classroom podiums, copiers and fax machines. It also includes any equipment or interconnected system or subsystem of equipment used in the automatic acquisition, creation, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. This term also includes telecommunications products (such as telephones), information kiosks, Automated Teller Machines (ATM) transaction machines, computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

Equally effective: The alternative format or medium communicates the same information in as timely a fashion as does the original format or medium.

Existing facility: A facility in existence on any given date, without regard to whether the facility may also be considered newly constructed or altered under the ADA regulations.

Facility: All or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fundamental alteration: A change that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.

Grantee: A person or entity who has received a grant from the Department to provide services to individuals to enhance their ability to perform major life activities.

Individual with a Disability: A person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Major life activities: Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

New construction: A project in which an entirely new facility is built from the ground up or where a new facility is added to an existing facility.

Oral presentation: A verbal presentation by an individual who reads written text out loud and interprets a document to an individual or member of the public. The reader is familiar with the content of the document and is able to effectively answer questions about the document.

Other power-driven mobility device: Any mobility device powered by batteries, fuel, or other engines (whether or not designed primarily for use by individuals with mobility disabilities) used by individuals with mobility disabilities for the purpose of locomotion. This includes golf carts, electronic personal assistance mobility devices (EPAMDs) such as the Segway®PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of the ADA.

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. It also means any mental or psychological disorder. It also includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Programs, services, or activities: Includes any DCS program, service, or activity whether within DCS-administered or operated by a contractor or grantee. Programs, services, or

activities are sometimes collectively referred to as "program" or "programs" in this policy.

Qualified individual with a disability: An individual with a disability who meets the essential eligibility requirements for the receipt of services or participation in programs, services, or activities provided by a public entity, including DCS. The individual may meet the eligibility requirements with or without reasonable accommodations or modifications to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services.

Qualified interpreter: An interpreter who, via a video remote interpreting (VRI) services or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Sign language interpreters and oral translators are examples of qualified interpreters.

Qualified reader: A person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

Reasonable accommodation: A change in the policies, practices, or procedures of a program, service, or activity if the change allows an individual with a disability the opportunity to participate equally in the program, service, or activity and is necessary to avoid discrimination based on disability unless the change would fundamentally alter the nature of the program, service, or activity.

Rehabilitation Act – Section 504: Federal law passed in 1973 that states “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any program, service, or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.”

Report of discrimination: A complaint by anyone alleging an act of disability discrimination by the Department in violation of Title II or Section 504 including the failure to provide a reasonable accommodation and retaliation for exercising rights under the ADA and Section 504. The investigation of these complaints is conducted by the Department ADA Coordinator or designee and is resolved internally to the Department.

Service animals: Dogs that are individually trained to do work or perform tasks for people with disabilities. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. In addition to the

provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. Applicability is explained in detail under Policy section V.M.

Service recipients: Any person who applies for, receives, or participates in a DCS program, service, or activity.

Teletext typewriters (TTY): A freestanding piece of equipment that runs over a telephone line or through a computer modem to communicate with deaf or hard of hearing individuals. The person with a TTY can communicate by typing a message that is transmitted in text format to another TTY. If the caller and the call recipient both have a TTY, they can communicate directly. If only one party has a TTY, the parties communicate through a voice relay operation that has a TTY, and typed messages are read to the party without a TTY. Relay operator services are free and can be accessed by dialing 7-1-1.

Transitory impairment: An impairment with an actual or expected duration of six months or less.

Undue administrative or financial burden: Significant difficulty or expense incurred by DCS to provide a specific accommodation that is unduly extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the business. Determinations must be made on a case-by-case basis.

Video Relay Service (VRS): A service that enables people with hearing or speech disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a communications assistant so that the VRS user and the communications assistant can see and communicate with each other in signed conversation.

Video Remote Interpreting (VRI) Service: An interpreting service that uses video conferencing technology to access an off-site interpreter that provides a real-time sign language interpreter to communicate with a person who is deaf or hard of hearing.

Wheelchair: A manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor, locomotion.



## **V. POLICY**

### **A. General**

1. No qualified individual with a disability shall, on the basis of disability, be discriminated against, be excluded from participation in, or be denied the benefits of the programs, services, or activities of the Department. DCS shall provide reasonable accommodations when necessary to avoid discrimination.
2. DCS shall not, directly or through contractual, licensing, or other formal or informal arrangements, on the basis of disability, deny a qualified individual with a disability the opportunity to participate in a program, service, or activity to receive the benefits or services offered in accordance with law.
  - a. DCS shall not use methods of program administration that have a discriminatory effect on individuals with disabilities.
  - b. DCS shall not use eligibility criteria that unlawfully screen out individuals with disabilities.
3. DCS shall not assess a charge or fee to an individual with a disability to cover the cost of measures required to provide the individual with the nondiscriminatory treatment required by this policy.
4. DCS may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, DCS must ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
5. Nothing in this policy prohibits the Department from providing benefits or services to individuals with disabilities beyond those required by law.

### **B. Child Welfare-Specific Nondiscrimination**

1. DCS shall not remove, restrict, or delay services or reunification because of a parent or caregiver's disability unless an assessment shows a direct threat or inability to safely parent even with reasonable modifications and

supports.

2. Case planning, services, and parenting time will be accessible, with reasonable modifications and auxiliary aids/services as needed, and may not be withheld due to disability.
3. DCS staff shall consider existing parental supports (assistive technology, adaptive equipment, in-home aides, supported decision-making, and family/community supports) when evaluating and documenting safety and caregiving capacity.
4. Decisions made by DCS staff shall be free of stereotypes or speculation. Any limitation must identify the specific risk, the evidence relied upon, and why less-restrictive modifications are insufficient.
5. The effectiveness of ongoing accommodations shall be revisited often, including at key case milestones (case planning, court hearings, etc.).
6. DCS shall provide periodic training specific to disability in child welfare practice.

#### C. Protected Individuals

The ADA and Section 504 protect an individual with a disability who, with or without reasonable accommodations 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 provided by DCS or its contractors. Protected individuals include:

1. Individuals with Substance Abuse Problems
  - a. Alcoholism is an impairment under the ADA. If it substantially limits a major life activity, it is a disability under the ADA.
  - b. An individual with a past history of engaging in the illegal use of drugs or alcohol, who is not currently engaged in the illegal use of drugs or alcohol and who:
    - i. has successfully completed a supervised drug or alcohol

rehabilitation program or has otherwise been rehabilitated successfully;

- ii. is participating in a supervised rehabilitation program, or
  - iii. is erroneously regarded as engaging in such alcohol or drug use.
- c. “Current use” is the illegal use of controlled substances that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem.
- d. Unless there are clinically justifiable, program eligibility-related reasons for doing so, the Department shall not exclude an individual from a program, provide lesser treatment, or deny an equal opportunity to participate in and benefit from programs on the basis that the individual has a history of illegal use of drugs, if the individual is currently participating in or has successfully completed a supervised drug rehabilitation program and is not currently engaging in illegal drug use. This policy is not intended to preclude program staff from developing and/or carrying out case plans designed to protect children.

2. Other Protected Individuals:

- a. individuals who have a past history of a disability, if they are being discriminated against based on that past history;
- b. individuals who are wrongfully perceived as having disabilities, if the program, service, or activity makes decisions on the basis of that perception;

D. Discrimination on the Basis of Association

- 1. DCS shall not discriminate against individuals that do not have disabilities themselves, but have a known relationship or association with individuals who have disabilities such as family members, friends, or any other individual.

2. An individual who experiences discrimination by association has the right to file a report of discrimination or a grievance with DCS, file a discrimination complaint with the appropriate federal or state designated agency, or to file a lawsuit.

E. Protection against Retaliation

1. The ADA protects individuals who exercise their rights under the ADA or assist others in exercising their rights under the ADA from retaliation. "Exercising rights" under the ADA include requesting reasonable accommodations. An individual who has filed a complaint, testified, or participated in any manner in the investigation of any complaint shall not be intimidated, threatened, coerced, discriminated, or retaliated against in any way.
2. Individuals who believe they have experienced retaliation after exercising their rights under the ADA, including those who exercise their rights by requesting a reasonable accommodation, have the right to file a discrimination complaint and/or a lawsuit.
3. The DCS ADA Title II/LEP Coordinator or designee shall provide support in the review of ADA Title II concerns, inquiries, or complaints involving allegations of retaliation against individuals with disabilities or others protected under this policy. If the ADA Title II/LEP Coordinator is made aware, via the ADA inbox or any other means, of allegations of DCS employees retaliating against individuals with disabilities or others protected under this policy, those allegations shall be reported to DCS Human Resources.

F. Administrative Responsibilities

1. DCS ADA Title II/LEP Coordinator Responsibilities
  - a. The DCS ADA Title II/LEP Coordinator is responsible for overseeing the Department's compliance with ADA Title II, Section 504, and other federal and state disability discrimination laws that apply to the provision of services to service recipients.

The DCS ADA Title II/LEP Coordinator may be contacted at:

Arizona Department of Child Safety  
 3003 N. Central Avenue  
 Phoenix, Arizona 85012  
[adalepcoordinator@azdcs.gov](mailto:adalepcoordinator@azdcs.gov)

- b. The DCS ADA Title II/LEP Coordinator shall:
  - i. serve as a resource for ADA Title II compliance regarding the provision of services to DCS service recipients;
  - ii. track in a centralized log all ADA Title II-related issues and grievances generated by the Office of the Ombudsman or received in the ADA/LEP inbox;
  - iii. assist DCS programs, services, or activities to review written rules and policies as well as practices to identify and modify those that may have a discriminatory effect, or adopt specific procedures for modifying those rules, policies, and practices for people with disabilities when necessary;
  - iv. assist the DCS Office of the Ombudsman in the resolution of ADA grievances;
  - v. monitor and review all ADA Title II-related service recipient grievances sent by the DCS Office of the Ombudsman or field staff to identify trends that require changes in policies and practices, and elevate recommendations to senior leadership;
  - vi. provide subject matter expertise to support the development and updating of ADA training material.

## 2. Department Responsibilities

In addition to program requirements identified in the policy, specific responsibilities include, but are not limited to the following.

- a. The DCS Office of Procurement shall ensure that all DCS contracts to provide services to individuals, and all contracts for

programs, services, or activities receiving federal financial assistance, require the party with whom DCS is contracting to comply with the ADA and Section 504 as required by law;

- b. The DCS Communications Office shall facilitate obtaining forms and publications in alternative formats when requested by or on behalf of individuals with disabilities, or by a DCS office;
- c. The DCS Communications Office shall assist the DCS ADA Title II/LEP Coordinator and DCS programs, services, and activities, to ensure that materials are provided in alternative formats that are accessible to people with disabilities when needed;
- d. The Office of Real Estate shall be responsible for oversight of physical accessibility of office sites in which DCS programs, services, or activities are delivered. This oversight includes:
  - i. ensuring that existing facilities are accessible;
  - ii. ensuring that new construction complies with accessibility guidelines;
  - iii. ensuring that building modifications are made in compliance with the ADA; and
  - iv. negotiating accessibility issues when renewing leases, including assigning responsibility for accessibility matters between the landlord and tenant, as appropriate.
- e. The DCS Office of the Ombudsman shall manage grievances regarding alleged ADA non-compliance for service recipients in accordance with its existing policy ([DCS 09-01](#)) and procedures. Interim accommodations shall continue during the grievance review.

G. Eligibility Criteria: Programs, Services, or Activities May Not Exclude or Screen Out Individuals with Disabilities

- 1. DCS shall not exclude qualified individuals with disabilities from DCS programs, services, or activities on the basis of disability if they meet the

program's essential eligibility requirements, with or without reasonable accommodation of rules, policies, or procedures, or the provision of auxiliary aids and services.

2. When there is a barrier to eligibility or participation that is related to the applicant's disability and the program, service, or activity's eligibility criteria, the program, service, or activity should apply the reasonable accommodation provisions of this policy (refer to section V.K).
3. DCS programs, services, and activities for individuals with a particular type of disability cannot exclude individuals simply because they have an additional disability.
4. DCS may not exclude persons with disabilities from activities based solely on the preference of other participants.
5. DCS may impose legitimate safety requirements even if they screen out individuals with disabilities, with the conditions that:
  - a. safety standards shall be applied to all individuals or participants;
  - b. the safety screening requirements shall be based on actual risk, not on speculation, stereotypes, or generalizations about individuals with disabilities or on presumptions about what a class of individuals with disabilities can or cannot do;
  - c. DCS inquiries about particular disabilities shall be limited to matters necessary to implement the safety standards.

#### H. Individuals with Disabilities Shall be Given Services in the Most Integrated Setting

DCS shall provide services, programs, and activities to individuals with disabilities in the most integrated setting appropriate to meet their needs within the context of the program, service, or activity being administered.

Unnecessary segregation of people with disabilities violates the ADA and this policy.

1. The Department shall ensure that alternative methods of providing program access do not result in unnecessary segregation.

2. Programs that provide for placement and levels of care including behavioral health and community placements providing programs in integrated settings requires consideration of the range of caregivers that are available and the individual's care and treatment needs.
  3. Providing program and placement services in integrated settings shall consider the individual's preferences, and the type of services that shall best fit the individual's needs that are then available, and shall be consistent with the access, reasonable accommodation, and communication requirements in this policy. While there are many factors that determine the selection of a program or placement (e.g., the availability of a kinship caregiver or previous caregiver; whether a youth requires the services of the Division of Developmental Disabilities; whether a youth requires a higher level of care, etc.), DCS shall make every effort to avoid unnecessary segregation while complying with the Department's *Caregiver Selection Protocols* ([DCS 19-03](#)) and *Selecting an Out-of-Home Caregiver* ([Chapter 4, Section 5](#)) policies.
  4. DCS will allow a qualified individual with a disability the opportunity to participate in services, programs, or activities, despite the existence of permissibly separate or different programs or activities.
- I. Ensuring Access to Programs, Services, or Activities to Individuals with Disabilities
1. DCS shall ensure that each program, service, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. DCS shall provide necessary accommodations (e.g., interpreters, assistive technology, accessible locations) so assessments measure ability, not barriers.
  2. Nonessential program rules shall be applied in a flexible manner for individuals with disabilities when necessary to avoid denial of meaningful access to programs, services, or activities.
  3. If an individual with a disability meets the essential requirements of a program, reasonable accommodations in other program rules and procedures shall be made to ensure a meaningful opportunity to participate and benefit.



4. Regarding existing facilities, new constructions and alterations, DCS shall comply with applicable law and this policy.
  - a. The Department may comply with program accessibility requirements through such means and as business need allows, including:
    - i. redesign or acquisition of equipment;
    - ii. reassignment of services to accessible buildings;
    - iii. assignment of aides to service recipients;
    - iv. home visits;
    - v. delivery of services at alternate accessible sites;
    - vi. alteration of existing facilities and construction of new facilities;
    - vii. any other methods that result in making its programs, services, and activities readily accessible to and usable by individuals with disabilities;

J. Identifying Individuals with Disabilities

1. For some service recipients, their disability has not yet been diagnosed. Although the relevance of an individual's disability depends on the nature of the program, service, or activity and nature and severity of the individual's limitations, disability shall often be relevant to one or more of the following:
  - a. eligibility for the program, service, or activity itself;
  - b. content of the individual's case plan;
  - c. applicability of different program rules or benefits;

- d. need for reasonable accommodations in programs and services.
- 2. Programs, services, or activities in which having a disability is a program requirement shall ensure that the needed information is gathered in a manner that ensures the individual an opportunity to participate in the program with no unnecessary delays or unneeded burdensome activities.
- 3. Programs, services, or activities in which having a disability is not a program requirement, but having a disability may impact the person's ability to effectively participate in the program, service, or activity, shall offer individuals the opportunity to voluntarily disclose disabilities.
- 4. DCS programs, services, or activities cannot require an individual to disclose a disability even though the decision to not disclose a disability may have consequences for the individual.
  - a. If an individual wants to apply for a benefit, program, or service in which a disability is an eligibility requirement, the individual shall disclose, and to the extent required by the program, document the existence, nature, and severity of the disability. If an individual refuses to provide this information, the program can find the individual ineligible for benefits or services.
  - b. For programs, services, or activities in which a disability is not an eligibility requirement, employees cannot require an individual to disclose or document a disability as a condition of receiving benefits or services. Nor can the program, service, or activity deny benefits or services to the individual on the basis that a person failed or refused to disclose a disability or provide documentation of a disability.
- 5. The individual's case record shall include, but is not limited to:
  - a. identification of any known physical or mental impairment that affects or that may affect the ability to comply with program requirements;
  - b. documentation if a determination was made that an individual has a physical or mental disability and if an accommodation is needed on an ongoing basis;

- c. an individual's request for a reasonable accommodation (even if the individual did not refer to the ADA or to reasonable accommodations when making the request); whether the accommodation request was granted or denied; and the appropriate reasons;
  - d. offers of reasonable accommodation made by employees and the outcome of the offers;
  - e. the anticipated duration that the accommodation will be needed.
6. If the record indicates that a disability may exist, employees shall review the individual's case record and case notes for more information, including the type of disability that the individual has and the type of accommodation needed.

#### K. Reasonable Accommodation

1. DCS shall provide individuals with disabilities with reasonable accommodations when necessary to have a meaningful opportunity to participate in and benefit from DCS programs, services, or activities.

DCS shall make reasonable accommodations to policies, practices, or procedures of a program, service, or activity at no cost to the individual with a disability when the accommodations are necessary to avoid discrimination based on disability unless the accommodation would fundamentally alter the nature of the program, service, or activity, or create an undue administrative or financial burden. Fundamental alteration and undue burden are discussed in Section V.Q of this policy.

2. Granting Requests

DCS Supervisors, Program Managers, or any staff member in their upward chain of command have the responsibility and the authority to grant reasonable accommodations. Procedures for granting requests are outlined in section VI.B below.

3. Documentation of Disability for Accommodations and Interim Accommodation

- a. Documentation of an obvious disability shall not be required unless:
  - i. the accommodation sought is a deferral from a programmatic requirement;
  - ii. the program and the individual with a disability disagree about what type of accommodation would meet the needs of the individual with a disability, and documentation from the individual would explain why the accommodation offered would not meet the needs of the individual; or
  - iii. there is a question of what accommodation is appropriate.
- b. The requested documentation shall verify the disability and its relationship to the barrier to eligibility or participation, and how the requested accommodation would reduce or eliminate the barrier to permit the individual to meet essential eligibility or participation requirements.
- c. Documentation of the existence of a disability is considered sufficient if it confirms the existence of the disability, the permanent or temporary nature of the disability, and the functional limitations caused by the disability.
- d. Only the information related to the disability generating the need for accommodation may be requested.

#### 4. Time Frame to Provide Reasonable Accommodations

- a. Accommodations shall be provided in time to avoid discrimination. Requests from service recipients shall be acknowledged by the DCS Specialist within three (3) business days and a decision about the accommodation shall be made within fifteen (15) business days. This time period may vary depending on factors including the type of accommodation requested and the consequences for the individual of failing to provide it immediately. Interim accommodation shall be provided if delay would result in a denial of access to services. Requests that cannot

be reasonably accommodated at the direct service level are elevated to the Supervisor or Program Manager, who shall maintain all documentation related to requests, decisions, effective dates, and any interim measures.

- b. When feasible, Department staff should encourage individuals who may need an accommodation to request it in advance. This encouragement may include advising persons how to request needed accommodation.
- c. DCS shall begin to accommodate the individual with a disability while gathering documentation when the individual with a disability:
  - i. is unlikely to have such documentation immediately available, or had no reason to know that it would be requested;
  - ii. does not have documentation for disability-related reasons (e.g., the individual with a disability has severe mental disability, and as a result of the disability, denies that a disability exists);
  - iii. does not have a regular treatment provider and has no present means to obtain medical or mental health appointments, examinations, and tests necessary to obtain documentation;
  - iv. needs an accommodation immediately, and failure to provide it immediately shall result in discrimination or would result in denial of an equal opportunity to obtain benefits or services;
  - v. needs an accommodation to participate in a program, but has not been evaluated for a disability.

## 5. Accommodations Needed on an Ongoing Basis

DCS programs, services, or activities shall ensure that accommodations needed on an ongoing basis are provided on that basis, so that a person

with a disability does not have to request the same accommodation each time they are needed.

6. Individuals with Disabilities Cannot be Required to Accept an Accommodation

Individuals with a disability shall not be required to accept an accommodation, service, opportunity, or benefit provided under this policy and cannot be excluded from programs, services, or activities because they refused an accommodation. If, however, as a result of refusing it, an individual with a disability does not fulfill program, service, or activity requirements, the Department, having advised the individual with a disability of the consequences of the refusal and the continued refusal of the individual with a disability, can take action against the individual with a disability on the basis that the individual with a disability does not comply with program, service, or activity requirements.

7. Reasonable Accommodation Available Regardless of Whether a Disability is Apparent

The appearance or lack of appearance of a disability shall not be a factor in determining whether the Department provides a reasonable accommodation. Department employees not trained in determining disability accommodations shall not make determinations on the need of clients requesting these services.

8. Denial of Requests for Reasonable Accommodation

When the Supervisor or Program Manager denies a request for an accommodation pursuant to section VI, B, 4, d, they shall ensure that the service recipient receives documentation of the decision, whether interim or final, regarding the request. The documentation shall explain why the Department did not approve the request, or why the Department decided to offer an accommodation other than the one that was requested. The service recipient shall be advised of their right to file a grievance. Grievance procedures are described in section VI.C.

9. No Requirement to Provide Personal Devices

This policy does not require a program, service, or activity to provide individuals with disabilities with any personal devices unless they are customarily provided to the individuals participating in the program, service, or activity. In some instances, the Department may choose to provide equipment or services of a personal nature as an alternative to providing another type of accommodation.

L. Disability-Related Non-Compliance with Program, Service, or Activity Requirements

DCS employees shall consider the potential impact of known disabilities when making a finding of willfulness or intent to refuse to comply with programmatic requirements. The Department shall offer reasonable accommodation when the accommodation will allow the individual with a disability to comply.

1. Department staff shall be sensitive to the conditions that some individuals with disabilities have that make it difficult to meet DCS program, service, or activity requirements, including attending appointments, complying with program notices, gathering documents, engaging in work activities, or complying with other program, service, or activity requirements.
2. Department staff shall consider the needs of participants who, although they do not have disabilities, may be caring for a family member who is disabled. Reasonable accommodation may be required in these instances to enable an individual to participate in program activities and still be able to provide required care for the disabled family member.

M. Communications (Including Auxiliary Aids and Services, and Telecommunications)

DCS shall honor an individual's requested auxiliary aid/service unless an equally effective alternative exists or it causes undue burden/fundamental alteration. DCS shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.

1. Auxiliary Aids and Services
  - a. DCS programs, services, or activities shall provide appropriate auxiliary aids and services (including, sign language interpreters,

where necessary) to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a DCS program, service, or activity unless it would result in a fundamental alteration or an undue financial or administrative burden.

- b. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual, the nature, length, and complexity of the communication involved, and the context in which the communication is taking place.
- c. In determining the type of auxiliary aid or service necessary, DCS gives primary consideration to, and shall honor the request of, the individual with a disability. To be effective, auxiliary aids and services must be provided in accessible formats and in a timely manner that protects the privacy and independence of the individual with a disability.
- d. DCS shall not require an individual with a disability to bring another individual to interpret for them.
- e. DCS shall not rely on a person accompanying an individual with a disability to interpret or facilitate communication except:
  - i. when there is no interpreter available and there is an emergency involving an imminent threat to the safety or welfare of an individual or the public; or
  - ii. when the person accompanying the individual is an adult and the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
- f. DCS may use contract service providers that interpret on an as-needed basis, including sign language interpreter services.



- g. DCS staff may choose to provide qualified interpreters via VRI (Video Remote Interpreting) only if the VRI provides:
  - i. real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
  - ii. a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of their body position;
  - iii. a clear, audible transmission of voices; and
  - iv. adequate set-up and operation without undue delay.

## 2. Telecommunications

- a. DCS may use several options for communicating by telephone with deaf and hard of hearing individuals, including Teledex typewriters (TTY), Video Relay Services, Video Interpreting Services, and Communication Access Realtime Translation (CART).
- b. DCS shall respond to telephone calls from a telecommunications relay service in the same manner that it responds to other telephone calls.
- c. As DCS develops and installs automated-attendant systems, including, but not limited to, voice mail and messaging, or an interactive voice response system for receiving and directing incoming telephone calls, those systems will consider the needs of persons who may use auxiliary aids and services.
- d. Department staff shall take into account the needs of persons with hearing loss or hearing impairments when program guidelines require participants to make telephone calls.

3. E-mail Communications

E-mail may be an effective way to communicate with individuals with disabilities. Staff who use e-mail to communicate with clients must ensure that they check and respond to such messages regularly, and designate a back up to access and respond to email when the primary contact is unavailable. Refer to the [DCS 05-8280 Acceptable Use Policy](#).

4. Notice to Individuals and the Public about Effective Communication with Individuals with Disabilities

DCS shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities, and about the methods by which the program, service, or activity communicates with individuals with disabilities, the fact that auxiliary aids and services are available, and how to request them. For example, information may be provided in posters at DCS program sites, as well as consumer education materials that individuals can take home with them. DCS can meet the obligation to provide this notice by including information about effective communication in consumer education materials that provide information about other ADA rights. If the program or service has a TTY number, that number shall be included in notices, brochures, and other written materials that include a voice telephone number for the program.

5. Website Accessibility

DCS provides access to DCS material to individuals with disabilities in a way that is as effective as access provided to individuals without disabilities. In accordance with the [World Wide Web Consortium's Web Content Accessibility Guidelines](#) (WCAG), the Department is committed to making its website accessible to people with disabilities by observing the four WCAG principles of accessibility:

- a. Perceivable: Information and user interface components must be presentable to users in ways they can perceive – it can't be invisible to all of their senses;
- b. Operable: User interface components and navigation must be operable – the interface cannot require interaction that a user

cannot perform;

- c. Understandable: Information and the operation of user interface must be understandable – the content or operation cannot be beyond their understanding;
- d. Robust: Content must be robust enough that it can be interpreted reliably by a wide variety of user agents, including assistive technologies – as technologies and user agents evolve, the content should remain accessible.

#### 6. Scope of DCS Duties

DCS is not required to take any action relating to this section on Communications that it can demonstrate would result in a fundamental alteration in the nature of a program, service, or activity or in undue financial and administrative burdens. In those circumstances where DCS personnel believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, DCS has the burden of proving that compliance would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the DCS Director or designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this policy would result in such an alteration or such burdens, DCS shall take any other action that would not result in such an alteration or such burdens but would ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services DCS provides.

#### N. Service Animals

- 1. DCS permits the use of a service animal by an individual with a disability (see Definitions section of policy for definition of "service animal").
- 2. DCS staff may ask an individual with a disability to remove a service animal from the premises if either of the following exist:
  - a. the animal is out of control and the handler does not take effective

action to control it. To be under control, a service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means);

- b. the animal is not housebroken.
3. Allergies and fear of animals are not valid reasons for denying access or refusing services to people using service animals. When a person who is allergic to animal dander and a person who uses a service animal must spend time in the same room or facility (for example, in a school classroom or at a homeless shelter), they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
  4. When there is a legitimate reason to ask that the service animal be removed, staff must offer the person with the disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.
  5. DCS and DCS employees are not required to supervise or otherwise provide care or food for a service animal. The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, grooming and veterinary care.
  6. DCS staff may make two inquiries to determine whether an animal qualifies as a service animal: (1) is the animal required because of a disability? and (2) what work or task has the animal been trained to perform? Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the animal, or ask that the animal demonstrate its ability to perform the work or task. Generally, DCS may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the animal is observed guiding an individual who is blind or has low vision).

7. Individuals with disabilities shall be permitted, without related fees or charges, to be accompanied by their service animals in all areas of DCS facilities where members of the public, participants in services, programs, activities, or invitees, as relevant, are allowed to go. Where DCS normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by their service animal.
8. People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals.
9. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert animal. Other people may need two service animals for the same task, such as a person who needs two animals to assist him or her with stability when walking. Staff may ask the two permissible questions (see above) about each of the animals. If both animals can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal.
10. In addition to provisions about service dogs, the Department of Justice's revised ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.)

DCS shall make reasonable accommodations in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable accommodations can be made to allow a miniature horse into a specific facility, DCS shall consider: the type, size, and weight of the miniature horse and whether the facility can accommodate these features; whether the handler has sufficient control of the miniature horse; whether the miniature horse is housebroken; and

whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

#### O. Mobility Devices

Unless building and personal safety concerns are raised, the following procedures apply:

1. DCS shall permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices in any areas open to pedestrian use.
2. DCS shall make reasonable accommodations in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility devices, unless DCS can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that DCS has adopted.
3. In determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable accommodation under section (2) above, the Department considers such factors as:
  - the type, size, weight, dimensions, and speed of the device;
  - the facility's volume of pedestrian traffic;
  - the facility's design and operational characteristics (e.g., whether its program, service, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if required by the user);
  - whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
  - whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the facility, or poses a conflict with other existing laws or regulations.
4. Department staff does not ask an individual using a wheelchair or other

power-driven mobility device questions about the nature and extent of the individual's disability.

5. Department staff may ask a person using another power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability, such as a valid, state-issued, disability parking placard or card, or other state-issued proof of disability, but does not demand documentation or a demonstration. In lieu of a valid, state-issued disability parking placard or card, or state-issued proof of disability, DCS accepts a reasonable verbal statement from the individual or their companion.

#### P. Grievances

Service recipients who believe they or someone in their care has been discriminated against in violation of Title II of the ADA or Section 504, or discriminated against on the basis of disability regarding DCS programs, services, or activities, may file a grievance by contacting the DCS Office of the Ombudsman or the U.S. DHHS Office for Civil Rights. Refer to Procedures (section VI.C) for information on filing a grievance.

#### Q. Fundamental Alteration or Undue Administrative or Financial Burden

1. When a fundamental alteration of a program, service, or activity, or undue financial or administrative burden would occur by providing program access, the Department takes such action to provide program access that will not result in a fundamental alteration of the program, service, or activity, or result in an undue financial or administrative burden. DCS may achieve access by:
  - a. providing services, activities, and programs in facilities that are accessible to individuals with disabilities;
  - b. transferring programs, services, and activities from any building that becomes temporarily or permanently inaccessible to an alternate location that is accessible;
  - c. modifying, when reasonable, the structure of a facility to ensure that individuals with disabilities have access to programs, services, and activities;

- d. making reasonable accommodations of policies and procedures, or providing auxiliary aids and services within available resources.
- 2. Any denial of a request for access, auxiliary aids, or services, or request for reasonable accommodation of policy due to a finding of fundamental alteration or undue administrative or financial burden, shall be in writing with the reason for denial provided by the individual who denied the request. Notice of denials resulting from a grievance review shall be provided by the DCS Office of the Ombudsman.
- 3. In those circumstances where DCS personnel believe that the proposed action would fundamentally alter the program, service, or activity or would result in undue financial and administrative burdens, DCS has the burden of proving that compliance would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Chief Operating Officer or designee or designee after considering all resources available for use in the funding and operation of the program, service, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.

#### R. Release of Information

If the DCS Office of the Ombudsman, the Supervisor/Program Manager, or the DCS ADA Title II/LEP Coordinator believes there is a need to share information about an individual's disability with any entity outside of the Department, the Department shall follow applicable federal and state law and Department policy regarding any such disclosure. DCS staff shall utilize the [Authorization to Release Information](#) form to secure the service recipient's authorization for release of the information.

#### S. Notice of Rights

DCS shall provide individuals and members of the public with information about their rights under the ADA.

- 1. DCS offices in which individuals are served shall display an approved poster or flyers that highlight individual rights under the ADA.



2. The Department shall provide information to explain rights of applicants and recipients in relation to services for those with disabilities. The information shall be made available where information about DCS programs and services are available.
3. Employees shall read and explain the information to the individual whenever a recipient of DCS services has a disability that interferes or may interfere with the ability to read and/or understand written material.

T. Illegal Drug Use

1. DCS shall not discriminate against an individual on the basis of illegal drug use if the individual is not currently engaging in illegal drug use.
2. DCS shall not deny health services or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current use of drugs, if the individual is otherwise entitled to such services. However, a drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.
3. Department programs, services, or activities may adopt reasonable policies related to drug testing that are designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in the current illegal use of drugs.
4. An individual with a psychoactive substance use disorder resulting from current illegal use of drugs is not considered to have a disability under this policy unless the individual has a disability due to another condition. However, the Department reserves both the right and the responsibility to develop prudent service plans and to implement applicable decisions regarding the safety and welfare of vulnerable children.

U. Direct Threat to Health and Safety of Others

1. DCS is not required to permit an individual to participate in or benefit from its programs, services, or activities when that individual poses a direct threat to the health or safety of others.
2. In determining whether an individual poses a direct threat to the health or

safety of others, the DCS personnel may make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

- a. the nature, duration, and severity of the risk;
- b. the probability that the potential injury will actually occur; and
- c. whether reasonable accommodations of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

#### V. Training

DCS will provide training to employees and contracted service providers to facilitate their understanding of DCS responsibilities under the ADA Title II and Section 504, this policy, and supporting procedures.

#### W. Contractors and Grantees

- 1. When DCS procures services by contract, grant, or intergovernmental agreement (IGA), DCS shall include requirements in contracts and IGAs that contractors, grantees, or governmental entities under IGA shall comply with Title II and Section 504, in addition to other applicable civil rights laws.
- 2. All procured contracts, grants, or IGAs shall also include provisions for DCS to periodically review contractors for compliance with Title II and Section 504.
- 3. Primary responsibility for adopting policies and procedures to provide non-discriminatory access by an individual or the public to a service, program, or activity administered by DCS lies with DCS.

## VI. PROCEDURES

#### A. Requesting Reasonable Accommodations

1. DCS staff shall provide reasonable accommodations, if feasible, that meet the needs of service recipients without filing a formal request. If reasonable accommodation cannot be granted, service recipients have a right to formally request a reasonable accommodation (the request need not reference the ADA):
  - a. Requests may be made orally, or in writing and directed to the assigned DCS Specialist. A DCS Specialist who receives an oral request shall respond to the request within 24 hours and document it in a note in Guardian. If the DCS employee who receives the request is not the assigned DCS Specialist, that employee shall notify the assigned DCS Specialist within one work day of the request and document it as a note in Guardian.

NOTE: If the necessary accommodation is available at the time of the request, it should be provided at that time.

  - b. If a DCS employee becomes aware that an individual has a disability that is causing the individual to have difficulty accessing services or participating in a program, service, or activity, the employee shall make the service recipient an offer for consideration of a reasonable accommodation. The offer shall be documented as a note in Guardian, including the perceived disability, the date of the offer, and the response, if any, from the service recipient.
  - c. If a DCS employee encounters barriers finding reasonable accommodations, the employee will elevate the issue to the ADA Title II/LEP Coordinator.
2. Department service recipients are under no obligation to accept an offered accommodation and may decline a request at any time.
3. Individuals with disabilities have the right to accept or request a reasonable accommodation that was previously offered and declined.
4. Dispositions of Requests for Reasonable Accommodations
  - a. When a service recipient requests an accommodation either orally or in writing, the DCS Specialist's Supervisor or Program Manager

decides if the request is appropriate and documents their decision as in Guardian. Additional information may be sought to determine the limitation of a disability and/or the accommodation needed.

- b. The service recipient may choose to either provide the information supporting their request or sign an [Authorization to Release Information](#) form, allowing the Department to obtain the information necessary to make a determination about the request.
  - i. Only information necessary to determine if an accommodation is required will be collected.
  - ii. When the disability is obvious, no verification is requested.
- c. DCS Supervisors or Program Managers, or any staff member in their upward chain of command, may authorize an interim accommodation (pending receipt of required documentation).
  - i. Pending a final determination on the request, an interim accommodation shall be provided in order to ensure the service recipient is able to access the requested services as appropriate;
  - ii. When a decision is made to provide an interim accommodation, the Supervisor or Program Manager authorizing the request enters the information in Guardian.
- d. Once a verbal or written request for a reasonable accommodation from a service recipient is received, the DCS Specialist acknowledges the request within three (3) business days. If the request requires elevation to the Supervisor or Program Manager, a final decision will be made within 15 days of the accommodation request. The Supervisor or Program Manager must determine if:
  - i. there is a need for an accommodation to enable the service recipient to receive the Department service; and
  - ii. the accommodation can be provided without a fundamental alteration to the nature of the program or an undue burden to the Department, as described in Section V.P.

- e. If the Supervisor or Program Manager believes that the accommodation would create an undue burden on the Department or would fundamentally alter the nature of the program, they shall escalate the matter to the DCS ADA Title II/LEP Coordinator who will ensure that the following steps are taken:
  - i. If the accommodation would require a substantial alteration to a Department-occupied building, the Office of Real Estate must approve the accommodation.
  - ii. If the accommodation would require purchase of equipment or software, the appropriate Assistant Director or their designee must approve the accommodation.
- f. Once a determination is made, the Supervisor or Program Manager:
  - i. documents the decision in Guardian; and
  - ii. documents that the service recipient has been informed of the determination.
- g. The Supervisor or Program Manager advises the service recipient that they may opt to file a grievance regarding the determination.
  - i. If the service recipient wishes to grieve the determination, any interim accommodation must be continued pending resolution of the grievance.
  - ii. Refer to Section VI.C for grievance procedures.

B. Auxiliary Aids and Service and Telecommunications

- 1. Procedures for accessing and using auxiliary aids and services can be found on [www.azrelay.org](http://www.azrelay.org). Auxiliary Aids and Services include:
  - a. For individuals with visual disabilities:
    - i. qualified readers;

- ii. taped texts;
  - iii. audio recordings;
  - iv. braille materials and displays;
  - v. screen reader software;
  - vi. magnification software;
  - vii. optical readers;
  - viii. secondary auditory programs (SAP);
  - ix. large print materials;
  - x. accessible electronic and information technology;
  - xi. other effective methods of making visually delivered materials available to individuals who are blind or have low vision.
- b. For individuals with auditory disabilities or those who are deaf or hearing- impaired:
- i. qualified interpreters on-site or through video remote interpreting (VRI) services;
  - ii. note takers;
  - iii. real-time computer-aided transcription services;
  - iv. written materials;
  - v. exchange of written notes;
  - vi. telephone handset amplifiers;
  - vii. assistive listening devices/assistive listening systems;

- viii. telephones compatible with hearing aids;
- ix. closed caption decoders;
- x. open and closed captioning, including real-time captioning;
- xi. voice, text, and video-based telecommunications products and systems including text telephones (TTYs), videophones, captioned telephones, or equally effective telecommunications devices;
- xii. videotext displays;
- xiii. accessible electronic and information technology;
- xiv. Communication Access Realtime Translation (CART);
- xv. other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.

Auxiliary Aids and Services also include the acquisition or modification of equipment or devices and other similar services and actions.

- 2. When reasonable accommodation involves the use of sign language interpreters, the assigned Department staff may access services from the list of available sign language interpreter services.
- 3. When reasonable accommodation involves the use of email, the assigned Department staff must establish a process to ensure prompt response. This shall include at least the following:
  - a. a reminder process to ensure that emails are responded to;
  - b. pursuant to the Email Etiquette ([DCS 11-05](#)) policy, a designated back-up will access and respond to email when the primary contact is unavailable.

#### C. Grievance Procedures

1. Grievance Management by DCS Office of the Ombudsman

Service recipients may file a grievance with the DCS Office of the Ombudsman by phone, in writing, in person, or on a grievance form. Anyone seeking to file a grievance is entitled to help from DCS staff to complete the form, if needed. Service recipients may contact the DCS Office of the Ombudsman in the following ways:

- a. Online: <https://dcs.az.gov/resource/complaint-or-disagreement>;
- b. Telephone: (602) 364-0777 or statewide toll free at (877) 527-0765;
- c. E-mail: [Ombudsman@azdcs.gov](mailto:Ombudsman@azdcs.gov);
- d. Writing: DCS Office of the Ombudsman, Department of Child Safety, PO Box 6030 – Site Code C010-023, Phoenix, AZ 85005-6030.

2. Filing a Complaint with U.S. DHHS, Office for Civil Rights

Service recipients may file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights in the following ways:

- a. Online: <http://www.hhs.gov/ocr/civilrights/complaints>.
- b. Telephone: Call 1-800-368-1019. TDD users should call 1-800-537-7697.
- c. Writing: Office for Civil Rights, U.S. Department of Health and Human Services 200 Independence Avenue, SW Room 509F, HHH Building Washington, D.C. 20201.

D. Allegations of Retaliation

- 1. Any Department employee who receives a complaint from a service recipient involving alleged retaliation for exercising their rights under the ADA forwards the information to the DCS Office of the Ombudsman.



2. The DCS Office of the Ombudsman contacts the service recipient who has allegedly been retaliated against to confirm that an investigation is being conducted.

E. Release of Information

When it is necessary to share information regarding a service recipient disability or accommodation with any entity outside of the division, prior to release of the information, the assigned Department staff shall secure the service recipient's authorization for the release of the information.

F. Contracts

1. DCS Contract Managers shall monitor contracts that serve Department service recipients to ensure that contractors are compliant with ADA requirements.
2. DCS Contract Managers may seek assistance from the DCS ADA Title II/LEP Coordinator and the Office of Procurement to resolve issues concerning ADA Title II compliance with contractors.

## VII. FORMS INDEX

[Authorization to Release Information \(DCS-1097A\)](#)