



INMATE RIGHTS UNDER THE ADA: A BRIEF OVERVIEW

Q: Does the ADA apply to prisons?

Yes. Title II of the ADA, 42 U.S.C. §§ 12131-12134, applies to all state prisons and local jails.

Q: Who is protected by the ADA?

"Qualified individuals with disabilities" are protected by the ADA. An individual with a disability is a person who meets one of the following three standards:

(1) The person has a mental or physical impairment that substantially limits one or more major life activities (such as walking, seeing, learning, hearing, interacting with others).

Examples: cerebral palsy; profound mental retardation; severe and persistent mental illness; HIV infection or AIDS.

(2) The person has a record of a mental or physical impairment that substantially limits a major life activity.

Example: history of heart disease

(3) The person is regarded as having a mental or physical impairment that substantially limits a major life activity.

Example: prison officials refuse to give a job to a person who had an isolated seizure -based on the mistaken belief that the job will trigger seizures.

An individual with a disability also must be "qualified" to be protected by the ADA. An inmate with a disability will be considered "qualified" if he can meet the essential eligibility requirements of the program, service, or activity with or without reasonable modifications to rules, policies or practices, with or without the removal of architectural or communication barriers, and with or without the provision of auxiliary aids and services (such as materials in Braille or sign language interpreters). For some prison services and activities, virtually all inmates are qualified. For other prison services and activities, eligibility may be limited.

Examples: All inmates are "qualified" for food services so that an inmate with uncontrolled diabetes who needs a special diet would be "qualified". In contrast, if a prison requires a high school diploma or GED for admittance to college level courses, an inmate who is deaf and seeks an interpreter for such courses will only be eligible if he has a diploma or GED.

Q: What are some examples of the impact of the ADA on prisons?

- Prisons cannot bar qualified individuals from specific programs on the basis of their disability.
- Prisons must meet certain physical accessibility requirements to accommodate persons with mobility or other physical impairments.
- Prisons, under some circumstances, must provide sign language interpreters for persons who are deaf to enable them to participate in

programs.

- Prisons must provide reasonable modifications to rules, policies, or practices to enable persons with disabilities to participate in the programs, services, and activities of the facility.

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- Prisons must provide reasonable modifications to rules, policies, or practices to enable persons with disabilities to participate in the programs, services, and activities of the facility.

Q: If the prison fails to provide necessary or appropriate medical or mental health services, is that a violation of the ADA?

No, unless there are extraordinary circumstances. However, an inmate who does not receive necessary or appropriate medical or mental health treatment may have other claims depending on the circumstances.

Q: How can an inmate incarcerated in a Pennsylvania State Correctional Institution (SCI) request a reasonable accommodation?

The Pennsylvania Department of Corrections (DOC) adopted Policy No. DC-ADM 006, revised effective January 23, 2009. Section 2 of DC-ADM 006 details how an inmate can request an accommodation and how the SCI and DOC will process that request. Under that Policy, an inmate seeking an accommodation must complete the Inmate Accommodation Request Form (which is Attachment 2-A to the Policy). In the Form, the inmate must describe his/her specific disability, the specific activity for which accommodation is needed, and the specific action the inmate wants DOC to take to accommodate his/her disability and allow him/her to perform the activity. This completed form must be submitted to the Corrections Healthcare Administrator (CHCA) or, if the SCI does not have a CHCA, to the person who performs the CHCA's functions.

Upon receipt of the Accommodation Request Form, the CHCA will evaluate the request. In doing so, the CHCA may review the inmate's medical records, arrange to have the inmate tested by appropriate persons, interview the inmate or staff, or take other actions reasonably necessary to conduct the review. The CHCA will put the results of his/her evaluation in a memorandum that will be forwarded to the Facility Manager.

After receipt of the CHCA's evaluation, the Facility Manager will make a recommendation as to whether to grant or deny the requested accommodation. The Facility Manager may consult with the CHCA or other representative of the Medical Department, security officials, the Deputy Superintendent for Centralized Services, or other staff with relevant knowledge or expertise.

The Facility Manager's recommendation on the requested accommodation is submitted to the Central Office Inmate Disability Accommodation Committee (COIDAC). COIDAC has responsibility to make the ultimate determination on whether to grant or deny the requested accommodation. In making this decision, COIDAC will review the inmate's Accommodation Request Form, CHCA's memorandum, the Facility Manager's recommendation. Generally, COIDAC's decision will be issued within 20 days of receipt of a complete submission by the Facility Manager.

Q: How can an inmate file an ADA related grievance?

If the inmate in a SCI considers that his/her rights under the ADA have been violated (because, for example, DOC has denied his/her request for a reasonable accommodation), he/she may submit a grievance under DOC Policy No. DC-ADM 804, titled "Inmate Grievance System." The grievance should: (1) state with specificity the inmate's disability; (2) the nature of the alleged violation of the ADA; and (3) if the grievance involves a failure to provide a reasonable accommodation, the specific accommodation he/she seeks.

Q: Can an inmate file a federal lawsuit to seek to enforce his/her rights under the ADA?

Yes, but there are certain restrictions. Most importantly, the Prison Litigation Reform Act (PRLA), 42 U.S.C. § 1997e(a), requires that all inmates exhaust available administrative remedies before filing a federal lawsuit under any federal law, including the ADA. **Failure to use the grievance procedure (and the accommodation procedure if the issue**

involves accommodation) available to SCI inmates will result in the dismissal of the lawsuit. To avoid dismissal, inmates who file ADA lawsuits in federal court should plead in their complaint how and when they exhausted their administrative remedies. The PRLA, 42 U.S.C. § 1997e, also imposes other limits on ADA claims, including some limits on damages.

Contact Information

If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). The email address is: intake@disabilityrightspa.org.

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania prioritizes cases that have the potential to result in widespread, systemic changes to benefit persons with disabilities. While we cannot provide assistance to everyone, we do seek to provide every individual with information and referral options.

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