

# YOUTH SERVICES POLICY

<b>Title:</b> Americans With Disabilities Act (Youth)	<b>Type:</b> B. Classification, Sentencing and Service Functions <b>Sub Type:</b> 8. Youth Related Services <b>Number:</b> B.8.8
<b>Page 1 of 5</b>	
<b>References:</b> Americans with Disabilities Act of 1990; Federal Register, July 26, 1991 (28 CFR Part 35); Nondiscrimination on the Basis of Disability in State and Local Government Services - Final Rule; "Prison Rape Elimination Act" of 2003, Public Law 108-79; ACA Standards 2-CO-2B-04 and 2-CO-3C-01 (Standards for Administration of Correctional Agencies); 4-JCF-5B-05 (Performance-Based Standards for Juvenile Correctional Facilities); US DOJ PREA Standards 115.316(a) – (c), and 115.364; YS Policy Nos. B.5.3 "Administrative Remedy Procedure" and C.2.11 "Prison Rape Elimination Act (PREA)"	
<b>STATUS: Approved</b>	
<b>Approved By:</b> <i>William A. Sommers, Deputy Secretary</i>	<b>Date of Approval:</b> 05/10/2021

**I. AUTHORITY:**

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

**II. PURPOSE:**

To establish the Deputy Secretary's commitment to compliance with the Americans with Disabilities Act (ADA) and the Prison Rape Elimination Act (PREA) as they pertain to services and programs for youth in the custody and/or under the supervision of YS.

**III. APPLICABILITY:**

Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Probation and Parole Program Director, Secure Care Director, Executive Management Advisor, General Counsel, Regional Directors, Facility Directors, Regional Managers, Central Office (CO) Youth ADA Coordinator, and all youth assigned to or under the supervision of YS.

#### IV. DEFINITIONS:

***Administrative Remedy Procedure*** - A formal review process through which a youth may seek resolution of complaints relating to his stay in a YS secure care facility.

***Americans with Disabilities Act (ADA)*** – A comprehensive law passed by Congress to protect disabled persons from discrimination in employment, hiring, transportation, access to public facilities and services, and telecommunications. The ADA was amended in 2008 with an effective date of January 1, 2009 and is now also referred to as the American with Disabilities Act Amendments Act (ADAAA).

***Americans with Disabilities Act (ADA) Coordinator*** – A staff member of an OJJ Secure Care Facility designated by the Facility Director per YS Policy A.2.13, Section VI.A, to review, record and monitor ADA matters, advise and make recommendations to the Facility Director pursuant to the ADA, and coordinate and assist in the implementation of reasonable accommodations for employees and youth. An ADA Coordinator should have a familiarity with the ADA and related laws, such as could be found with a facility's Human Resources Liaison for Employees, Applicants, Candidates, and Visitors.

***Auxiliary Aids and Services*** -- items, equipment or services that assist in effective communication between a person who has a hearing, vision or speech disability and a person who does not.

***Disability*** – With respect to an individual, the term “disability” means:

- A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- A record of such impairment; or
- Being regarded as having such impairment.

***Effective Communication*** -- Communication with people with disabilities that is equally effective as communication with people without disabilities.

***Major Life Activity*** — Walking, seeing, hearing, breathing, caring for one's self, sitting, standing, lifting, learning, thinking, working and reproduction. This list is illustrative only. The impairment to a major life activity must be long term.

***Prison Rape Elimination Act (PREA)*** - An Act signed into law by President George W. Bush in September 2003. This legislation requires the Bureau of Justice Statistics (BJS) to initiate new national data collections on the incidence and prevalence of sexual violence within correctional facilities. PREA defines four categories of sexual abuse for purposes of data collection: abusive sexual contacts, nonconsensual sexual acts, staff sexual harassment and staff sexual misconduct.

***Reasonable Accommodation*** — a modification or adjustment to a job, service, program or activity, etc. that enables a qualified individual with a disability to have an equal opportunity for participation.

***YS Central Office*** - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Executive Management Advisor, Legal Counsel, Regional Directors, and their support staff.

**V. POLICY:**

It is the Deputy Secretary's policy to provide youth with access to housing and education and treatment programs and services regardless of their disability unless it is necessary to make an exception. This shall be accomplished within the context of YS' fundamental mission to preserve the safety of the public, staff and youth, and shall be consistent with other classification variables that may affect custody, living area and program assignments.

Access to living areas, programs and services includes the initiation and provision of reasonable accommodations designed to address the specific disability that youth may have. Reasonable accommodations may include facility modifications, auxiliary aids and services, assistive equipment and devices for hearing and/or learning impaired, and interpreter services to overcome communication barriers. YS also offers a variety of education and treatment programs available to youth in custody with both physical and mental impairments, including learning disabilities related to literacy and/or cognitive skills. However, any accommodation for any disclosed disability shall not constitute a danger to the youth or others.

**VI. PROCEDURES FOR YOUTH TO REQUEST ACCOMMODATION:**

- A. A youth with a disability may be able to function without any accommodation other than that which may already have been provided. If additional accommodation is necessary, a request should be addressed to the Facility ADA Coordinator for youth housed in a secure care facility, or the Regional Manager for youth under supervision

by Community Based Services (CBS) for consideration and appropriate action. The request may be verbal or written. The “Youth Request for Accommodation” form [see Attachment B.8.8 (a)] should be initiated for each request.

Once any request for accommodation has been received, either verbally or in writing, the person receiving the request should immediately relay the request to the Facility Director and/or ADA Coordinator for youth housed in a secure care facility, or the Regional Manager for youth under supervision by Community Based Services (CBS).

- B. The completed “Youth Request for Accommodation” form, with attachments, shall be forwarded by the Facility ADA Coordinator/Regional Manager to the appropriate Secure Care Director/Regional Director/designee for review, who shall work with the Facility ADA Coordinator/Regional Manager regarding any concerns. If it is believed the requested accommodation cannot be reasonably accomplished, the Facility Director/Regional Manager shall forward the case file with an action plan to the Deputy Secretary/designee for review.
- C. If a youth is not satisfied with the results of the request for accommodation, the youth may seek relief through the Administrative Remedy Procedure (ARP) pursuant to YS Policy No. B.5.3.

**VII. PROCEDURES FOR YOUTH WITH DISABILITIES AND LIMITED ENGLISH PROFICIENCY:**

- A. Youth with disabilities shall have an equal opportunity to participate in and benefit from all aspects of YS’ efforts to prevent, detect and respond to sexual abuse, injurious sexual conduct and sexual harassment.
- B. Youth who are limited English proficient shall have meaningful access to all aspects of YS’ efforts to prevent, detect and respond to sexual abuse, injurious sexual conduct, and sexual harassment.
- C. Employees and staff who become aware of or have a reason to believe that a youth has a disability for which they would need accommodation are required to advise the ADA Coordinator, Facility Director, or Regional Manager of such need.
- D. When necessary to ensure effective communication, youth who are deaf, hard of hearing, or limited English proficient shall be provided an interpreter.

**YS Policy No. B.8.8**  
**Page 5**

- E. Youth interpreters, readers or assistants shall not be relied upon except where an extended delay in obtaining a qualified interpreter could compromise a youth's safety, compromise the performance of first-responder duties under US DOJ Prison Rape Elimination Act (PREA) Standard 115.364, or materially delay any investigation of the youth's allegations.
- F. Written materials shall be provided in a format that allows any youth with a communication disability or who are limited English proficient to adequately convey and describe their concerns, allegations or any requested accommodation, or in any format which otherwise ensures effective communication between YS staff and any youth with communication disabilities.
- G. YS is not mandated to take steps which would result in a fundamental alteration in a service program or activity or that would create undue financial and administrative burdens pursuant to Title II of the American with Disabilities Act (ADA).

**Previous Regulation/Policy Number:** B.8.8

**Previous Effective Date:** 05/14/2019

**Attachments/References:** B.8.8 (a) YOUTH REQUEST FOR ACCOMMODATION – May 2021.docx

<b>YOUTH REQUEST FOR ACCOMMODATION</b> Youth Services	Facility:
	Regional Office:
<b>SECTION: 1 – Requestor</b> Complete Sections 1, 2, and 3. Please PRINT all information. Return the completed request to the Facility ADA Coordinator/Regional Manager.	
TO: (Facility ADA Coordinator/Regional Manager)	Date: (Month/Day/Year)
Youth Name:	Client ID#
Address:	
Requestor: (Check only one) <div style="text-align: center;">             Youth _____              (Briefly Identify)         </div>	

**SECTION 2: - Request is for what Area? Check only One.**

<input type="checkbox"/> Personal Disability Accommodation	<input type="checkbox"/> Structural Accessibility
<input type="checkbox"/> Program Participation	<input type="checkbox"/> Other - Specify

**SECTION 3: - Briefly state the problem and the proposed solution – Use additional pages as needed.**

**RESPONSE TO REQUEST**

Date Received: (Month/Day/Year)	<input type="checkbox"/> Approved	<input type="checkbox"/> Modified	<input type="checkbox"/> Disapproved
Comments:			
AUTHORIZATION:	Date: (Month/Day/Year)		
RFA Number – Assigned by ADA Coordinator	Entered/Logged Into Master File (Date) _____ Copy sent to YS ADA Coordinator (Date) _____		