

Department of Mental Health & Addiction Services (DMHAS)

ADA Title II: Equal Access to DMHAS Services, Programs and Activities Implementing Procedure

Purpose:

The Department of Mental Health and Addiction Services (DMHAS) Commissioner's Policy Statement, **ADA Title II: Equal Access to DMHAS Services and Activities** provides persons with disabilities the same opportunity to participate in DMHAS programs, services and activities as everyone else and prohibits discrimination due to a person's disability as required by the Americans with Disabilities Act (ADA), other federal laws and Connecticut State Statutes.

The **ADA Title II: Equal Access to DMHAS Services, Programs and Activities Implementing Procedure** provides DMHAS state-operated facilities and programs guidance to support the Department's commitment to accessibility.

Scope:

The procedure applies to DMHAS state-operated services, programs, and activities. It does not apply to DMHAS employment, nor does it apply to providers contracted by DMHAS except for programs and activities held at a DMHAS facility or by a DMHAS program.

I. Definitions

- **Americans with Disabilities Act:** The ADA is civil rights law passed by Congress in 1990 and amended in 2010.
 - The ADA prohibits discrimination against individuals due to disability and guarantees the right of persons with disabilities to participate in all areas of public life.
 - The ADA includes five titles: Title I, employment; Title II, state and local government programs, services and activities (public entities); Title III, businesses and non-profits which provide goods and services to the public (public accommodations); Title IV, telecommunications and Title V, miscellaneous provisions.
- **ADA Coordinator:** Employers and public entities designate ADA Coordinators to address complaints and oversee compliance with the ADA.
- **ADA Title II:** State and local governments are public entities under ADA Title II which provide persons with disabilities equal opportunity to benefit from programs, services, and activities they are otherwise qualified for in the most integrated manner possible and to ensure communication is equally effective for persons with disabilities as for everyone else.

Title II entities:

- Are prohibited from discriminating on the basis of disability.
 - Provide persons with disabilities reasonable modifications of policies, practices and procedures on request without a surcharge fee.
 - Give primary consideration to the communication choice of the individual and provide auxiliary aids and services for effective communication on request without a surcharge fee.
 - Remove barriers to equal access when there are no other feasible alternatives to make a service, program or activity accessible.
 - May impose legitimate safety requirements necessary for the safe operation of services, programs, or activities based on actual risks.
 - Are not required to permit an individual to participate in or benefit from the public entity's services, programs, or activities when that individual poses a direct threat to the health or safety of others.
- **Auxiliary Aids and Services:** Devices and services provided without a surcharge fee to persons who are Deaf, Deafblind or Hard of Hearing or who have sensory or communication disabilities.

Auxiliary Aids and Services:

- Include but are not limited to sign language interpreters, documents in large print or alternative formats, captioning virtual meetings and other effective methods of communication.
 - Do not include hearing aids or devices for personal use.
- **Disability:** The Americans with Disabilities Act defines disability as a physical or mental impairment that substantially limits one or more major life activity.
 - A person is covered by the ADA when they have such impairment, or they have a record of such impairment, or they are regarded as having such impairment.
 - **Effective Communication:** Public entities are required to ensure communication is equally effective for a person with disabilities as it is for other people by providing auxiliary aids and services.
 - Primary consideration is given to the person's choice of auxiliary aid or service depending on the person's normal method(s) of communication, the nature, length, complexity, and context of what needs to be communicated.
 - A person's choice of auxiliary aid or service cannot be honored if the choice results in a fundamental alteration of the program, service or activity or pose an undue burden and another equally effective means of communication is available.
 - **Fundamental Alteration:** A change in the essential nature of a service, program, or activity. Also known as a fundamental change.

- **Grievance Procedure:** A process which addresses complaints from persons with disabilities concerning a public entity's compliance with the ADA.
- **Qualified Person with Disabilities:** A person with disabilities who is qualified or otherwise eligible to participate in a public entity's programs, services and activities regardless of whether they have a disability.
- **Reasonable Modification:** ADA Title II entities provide persons with disabilities equal access to programs, services and activities they are otherwise qualified for by modifying policies, practices, or procedures without a surcharge fee.
 - Reasonable modifications:
 - Are provided on request if a person's disability is not obvious.
 - Are provided in the most integrated manner possible.
 - Changes which would create a fundamental alteration of a service, program or activity or impose an undue burden or present a safety risk are not considered reasonable modifications.
 - ADA Title II does not require a public entity to provide personal use devices or personal services such as hearing aids, glasses or personal care assistants.
- **Reasonable Accommodation:** A requested change to a job or work environment under ADA Title I or a request from a person with disabilities for a housing provider to modify or remove a "no pet" or "pet fee" policy for an assistance animal under Housing and Urban Development regulations.
- **Service Animal:** According to ADA Title II and ADA Title III, a service animal is a dog specifically trained to work for or perform a duty or task for a person with disabilities.
 - A miniature horse may be considered a service animal when the horse is trained to perform a duty or task for a person with disabilities.
 - ADA Title II and ADA Title III entities must permit service animals to accompany people with disabilities in all public areas.
 - Dogs that are not trained to perform a task or work for a person with disabilities and other animals whose purpose is providing emotional support or comfort for a person with disabilities are not service animals and are not protected by ADA Title II or ADA Title III.
 - Service animals, emotional support and comfort animals are considered Assistance Animals under ADA Title I (employment) and Housing and Urban Development (HUD) regulations.
- **Undue Burden:** Changes which alter the essential nature of a program, service or activity or which causes a significant difficulty or expense to accomplish.

II. DMHAS ADA Title II Coordinator

The DMHAS ADA Title II Coordinator (Coordinator) helps DMHAS state-operated facilities and programs comply with ADA Title II by:

- Addressing ADA Title II related complaints from qualified persons with disabilities.
- Providing DMHAS leadership information and guidance on complying with the ADA.
- Collaborating with the DMHAS ADA Title I Coordinator, DMHAS leadership and DMHAS legal division.
- Co-charing the DMHAS ADA Advisory Committee along with the DMHAS ADA Title I Coordinator.

III. DMHAS ADA Advisory Committee

The DMHAS ADA Advisory Committee advises DMHAS leadership on the ADA and works on initiatives that help DMHAS comply with ADA Title II.

- The committee is co-chaired by the DMHAS ADA Title I and Title II Coordinators.
- Committee membership includes representatives and designees of DMHAS Leadership, Office of Multicultural Healthcare Equity, Recovery and Community Affairs, DMHAS Engineering Services, DMHAS Fiscal Division and DMHAS facilities. Committee members include persons with disabilities and at least one DMHAS employee representative of the Deaf community.
- The committee meets quarterly or more frequently as needed.
- The committee undertakes initiatives which promote DMHAS compliance with ADA Title II and which promote the understanding of the ADA by DMHAS staff and clients.

IV. DMHAS Facilities, Services and Programs

DMHAS state-operated inpatient and outpatient facilities and DMHAS programs provide qualified persons with disabilities, effective communication and equal access to programs, services and activities.

A. A qualified person with disabilities includes:

- A client or patient of a DMHAS facility or program.
- Someone who is otherwise eligible to receive services from a DMHAS facility or program.
- Someone who participates in or is otherwise eligible to participate in a DMHAS service, program or activity
- A client's companion, visitor or guest at a DMHAS facility, program or activity.
- Volunteers or interns at a DMHAS facility or program.
- Employees of a DMHAS contracted provider who are assigned to a DMHAS facility or who are participating in a DMHAS program or activity.

B. State-operated DMHAS facilities include:

- Capitol Region Mental Health Center

- Connecticut Mental Health Center
 - Connecticut Valley Hospital including Blue Hills Hospital
 - River Valley Services
 - Southeastern Mental Health Authority
 - Southwest Connecticut Mental Health System including Greater Bridgeport Community Mental Health Center and F.S. DuBois Center.
 - Western Connecticut Mental Health Network including Danbury Area, Torrington Area, and Waterbury Area sites.
 - Whiting Forensic Hospital
- C. Each DMHAS state-operated facility designates an ADA Title II Facilitator who addresses requests for reasonable modifications of services, programs, and activities from qualified persons with disabilities and their authorized representatives.

DMHAS ADA Title II Facilitators:

- Have a working understanding of the ADA and DMHAS implementing procedure.
- Address reasonable modification requests in a timely manner.
- Maintain the confidentiality of requests for reasonable modifications except when aspects of a request are shared on a need-to-know basis.
- Promote staff and client understanding of the Americans with Disabilities Act in collaboration with the ADA Title II Coordinator and ADA Advisory Committee.
- May designate someone to assist them when responding to a request for reasonable modification.
- Work with the ADA Title II Coordinator to provide reasonable modifications or to address complaints from qualified persons with disabilities or their authorized representatives.

V. Reasonable Modifications

- A. DMHAS uses an interactive process to provide effective communication and reasonable modifications of policies, procedures and practices that includes:
- Giving primary consideration to the request made by a person with disabilities unless the person's choice causes a fundamental alteration of a program, service, or activity or presents undue burden or safety issue and an equally effective modification is provided.
 - Making reasonable modifications to policies, practices, and procedures on request from a person with disabilities (or their authorized representative).
 - Offering an alternative reasonable modification when the person's request cannot be accommodated.

- B. The interactive process begins informally at the DMHAS facility where the qualified person with disabilities is participating in or is otherwise qualified to participate in a program, service or activity.
- If a person's need for effective communication or reasonable modification is obvious or if the person makes their need known to DMHAS staff overseeing the program, service or activity, those modifications that can be immediately accomplished are made.
 - For example: moving a program to an accessible location, providing material in large print or other accessible format.
 - If the person's need for effective communication or reasonable modification cannot be immediately addressed, DMHAS staff can help the person make their need for a reasonable modification known to the facility's ADA Title II Facilitator or if the person needs sign language interpretation, the facility's Deaf, Deafblind, Hard of Hearing (DHOH) contact.
- C. Requests for reasonable modifications are submitted by the person with disabilities or their authorized representatives to the DMHAS facility's ADA Title II Facilitator (facilitator).
1. Requests do not need to be in writing.
 - Forms are not necessary
 - The DMHAS Office of the Commissioner and DMHAS facilities provide reasonable modification request forms to help in submitting requests.
 - Staff, family members or advocates can help a person with disabilities submit requests for reasonable modifications.
 - Conservators of person and other legally authorized persons may submit a request on behalf of a person with disabilities.
 2. Requests for reasonable modifications are submitted at least 10 calendar days before they are needed or as soon as possible to allow time for arrangements unless the request is urgent.
 3. Requests should include the following elements:
 - Name of the person with disabilities requesting reasonable modifications and their contact information or name and contact information of the authorized representative requesting reasonable modifications on behalf of a person.
 - Date the request is submitted.
 - The DMHAS program, service, or activity modification is needed.
 - Date and Time the modification is needed.
 - Requested modification.
 - The reason the request is a reasonable modification.

4. The facilitator reviews and responds to the request in a timely manner:
 - The facilitator discusses the request with the person and their authorized representative if they have one.
 - The facilitator is prohibited from requiring a person to disclose their disabilities.
 - The facilitator may ask the person to:
 - Explain how the request is a reasonable modification to a policy, practice or procedure.
 - Provide additional information including documentation from the person's medical provider, treater or clinician which supports the request.
5. The facilitator Issues their response in enough time for the person to participate in the program, service or activity.
 - Requested modifications are provided when the request does not change the essential aspects of a program, service or activity or pose an undue burden or safety risk.
 - The facilitator makes those arrangements necessary to accommodate the request.
 - The facilitator can offer an equally effective modification in consultation with the person if the submitted request is determined to fundamentally alter the nature of the program, service or activity, imposes an undue burden or a safety risk.
 - The facilitator may deny requests that are not made by or on behalf of a person with disabilities who is otherwise qualified for DMHAS services or is a person with disabilities who is a client's companion, visitor or guest of a DMHAS program or activity, or requests that are not required under Title II of the ADA.
6. The facilitator notifies the person requesting a reasonable modification that complaints are submitted to the DMHAS ADA Title II Coordinator (Section VII).
7. The facilitator maintains confidentiality of reasonable modification requests by:
 - Observing confidentiality laws and keeping reasonable modification requests and responses separate from client clinical charts.
 - Limiting sharing information about requests to a need-to-know basis when providing reasonable modifications.
 - Observing State of Connecticut and DMHAS compliance policies regarding the electronic mail use.

VI. Effective Communication

DMHAS provides effective communication to qualified persons with disabilities and honors the persons' choice of communication unless it can be demonstrated the choice would result in a fundamental alteration of the program, service or activity or pose an undue burden and another equally effective means of communication is available.

A. Deaf, Deafblind, Hard of Hearing (DHOH)

DMHAS facilities and programs provide Deaf, Deafblind Hard of Hearing (DHOH) services free of charge on request from a qualified person with disabilities.

DMHAS DHOH services include American Sign Language (ASL) as well as other forms of sign language, Communication Access Real Time (CART), and Video Relay Interpreting.

- Requests for DHOH services are addressed by the facility's DHOH contact person at the facility where the person is receiving services or participating in programs and activities.
 - Requests for DHOH services can also be made through the facility's ADA Title II Facilitator or DMHAS ADA Title II Coordinator.
- The DMHAS Office of the Commissioner administers requests for DHOH services from DMHAS Divisions and maintains a DMHAS DHOH webpage which includes information on services and community resources.

B. Sensory and Communication Disabilities

DMHAS facilities and programs provide auxiliary aids and services on request free of charge to qualified persons with disabilities.

- Auxiliary aids and services can include recording meetings, reading assistance, providing documents in large print, using tablets and other technology which allows a person and staff to communicate.
- Requests for auxiliary aids are submitted to the facility's ADA Facilitator using the same procedure as requesting Reasonable Modifications. Requests can also be submitted to the DMHAS ADA Title II Coordinator.

VII. Animals In DMHAS Facilities, Programs and Activities

A. Service Animals

Service animals are welcome in DMHAS facilities open to the public as well as programs, services and activities including inpatient settings except when the animal's presence fundamentally alters the nature of the program, service, or activity or poses a risk to health and safety of the person using the animal and others.

- A person's whose use of a service animal is not obvious may be asked two questions:
 - Is the animal a service animal required because of a disability?
 - What work or task has the animal been trained to perform?
- The person using a service animal is not required to show proof the dog is a service animal nor is the dog required to wear a vest or ID declaring it is a service animal.
- A person with disabilities may use more than one service animal when the dogs are trained to perform separate tasks.

- The service animal's user is responsible for keeping the dog under their control at all times and for providing care for the dog.
 - Service animals must be harnessed, leashed, or tethered to the person with disabilities using the animal unless the device interferes with the use of the animal and the animal is controlled by verbal or other commands.
- ADA Title II does not require DMHAS to allow a service animal in an area where the animal's presence interferes with legitimate safety requirements.
 - A service animal's user can be asked to remove the animal if it is not housebroken (house trained) or if the user is unable to control the animal or the animal poses a direct threat to the health and safety of others or has a history of aggressive behavior.
- When a service animal must be removed from a DMHAS facility, program or activity, the DMHAS ADA Title II Facilitator or program supervisor:
 - Notifies the animal's user of the reason(s) for the removal.
 - Offers alternative reasonable modifications in lieu of the service animal
 - Explains the animal will be allowed to return once it is determined by the facility's ADA Title II Facilitator that the reason for the removal was corrected.
- If there is a conflict between a service animal's user and other person(s) with disabilities, the facility's ADA Title II Facilitator works with the parties to resolve the conflict in the most equitable way possible considering individual circumstances.
- DMHAS is not required by ADA Title II to admit service animals in training in at DMHAS facilities, programs, services and activities.
 - DMHAS complies with Connecticut statutes regarding service animals in training.
- The person using a service animal will be informed that Connecticut law requires local Animal Control be notified if it is observed that the animal has unjustifiable injuries, or its condition is such that neglect or cruel treatment is reasonably suspected.
- Complaints from persons with disabilities regarding service animals are submitted to the DMHAS ADA Title II Coordinator.

B. Assistance Animals

Residential programs operated by DMHAS including respite and transitional housing comply with current HUD regulations and state statutes regarding Assistance Animals.

1. Persons with disabilities in a DMHAS residential program must submit reasonable accommodation requests to the facility's ADA Title II Facilitator asking that a "no pet" or pet fee policy be modified.
 - Unless the animal is a service animal and its use is obvious, the person will be asked to identify the reason for requesting an assistance animal.
 - The facilitator may ask the person to provide documentation demonstrating a disability-related need for the animal.

- DMHAS is prohibited from requiring a person to disclose their disabilities.
2. The facilitator will review the request and determine if the animal poses a direct threat to the health or safety of others or could cause substantial physical damage to property or if by waving a “no pet” or “pet fee” policy, the nature of the program’s operations would be fundamentally altered or waving the policy would lead to undue financial and administrative burden.
 3. The DMHAS ADA Title II Facilitator notifies the person of their decision and reasons for their decision.
 4. A person in a DMHAS residential program may be directed to remove the animal for several reasons including:
 - It is determined the person failed to provide appropriate care for the animal with or without help.
 - The animal is a nuisance and is not under the control of the person with disabilities
 - The animal poses a direct threat to health and safety
 - Causes substantial physical damage to property.
 - The animal’s owner did not comply with Connecticut statutes concerning vaccinations and licensing.
 5. Complaints from persons with disabilities regarding assistance animals in DMHAS residential programs are submitted to the DMHAS ADA Title II Coordinator.

VIII. DMHAS ADA Grievance Procedure

The DMHAS ADA Grievance Procedure is an interactive process which addresses complaints from qualified persons with disabilities who are not employees of DMHAS or person’s seeking employment with DMHAS.

1. Complaints from qualified persons with disabilities or their authorized representatives that a DMHAS facility did not provide reasonable modification or that a DMHAS residential program did not provide a reasonable accommodation or DMHAS discriminated against the person because of disabilities are submitted to the DMHAS Title II ADA Coordinator.
2. Complaints are submitted as soon as possible, no later than 45 calendar days after the complaint occurred unless the DMHAS ADA Title II Coordinator determines there is good cause for a later submission.
 - A copy of an authorization to act on behalf of a person with disabilities may be required before the complaint can be addressed.
 - Complaints do not need to be submitted in writing.
 - All complaints should include:
 - Description of why the complaint was submitted.
 - Date and location where the complaint occurred.

- If the complaint is about a request for reasonable modification, the date and location the modification is needed.
 - Contact information for the person submitting the complaint.
 - The ADA Coordinator observes State of Connecticut and DMHAS compliance policies regarding the use of electronic mail.
3. The Coordinator addresses the complaint as soon as possible within 21 calendar days unless the Coordinator authorizes additional time for good cause.
 - The Coordinator interviews the person submitting the complaint.
 - If the complaint is about a request for reasonable modifications, the Coordinator addresses the request in a timely manner based on when it is needed.
 - The Coordinator works with the facility's ADA Facilitator and facility's CEO or designee to determine whether the requested modification can be provided.
 - If the requested modification cannot be provided, an alternative reasonable modification will be offered.
 4. The Coordinator issues a written response to the person and the facility's Chief Executive Officer.
 - The response will be provided in an alternative format on request.
 5. The person has 10 business days to acknowledge receiving the Coordinator's response.
 - The person may accept the response which resolves the complaint or reject the response.
 - If the person does not respond within 10 business days, the matter will be considered withdrawn.
 6. If the person rejects the Coordinator's response, the coordinator notifies the DMHAS Commissioner who designates another official to conduct a further review.
 - Review by the Commissioner's designee is the final step of the DMHAS ADA Grievance Procedure.
 - The person with disabilities submitting the complaint may seek other remedies at any time.

IX. Notices

DMHAS facilities post copies of the DMHAS "Americans with Disabilities Act Notice" and other notices provided by the DMHAS Office of the Commissioner.

- Notices are available on the DMHAS website. Copies in alternative languages and formats can be requested from DMHAS Office of the Commissioner.

X. References and Resources

References

- Americans with Disabilities Act, Title II: 28 CFR Part 35 F § 35.170
 - [ADA Title II Technical Assistance Manual ADA.gov](#)
 - [ADA Requirements: Effective Communication ADA.gov](#)
 - [Americans with Disabilities Act Title II Regulations | ADA.gov](#)
- Section 504 of the Rehabilitation Act: Title 29 USC §701 et seq.
- Fair Housing Act: 42. U.S.C. §3601 et seq.
- Connecticut General Statutes (CGS) including but not limited to: §17a-101; §17a-412; §17a-451(u); §§17a-540 through 17a-550; §17a-541u; §17b-451; §46a-11b; §46a-44; §53-247a; §53-247b; Public Act §18-86
- Connecticut General Statutes, Title IV, Chapter 54, §4-176 and §4-177
- DMHAS Commissioner's Policies and Directives:
 - Chapter 2.18 [Reasonable Accommodation Request Policy](#)
 - Chapter 6 Clinical and Facilities: [DMHAS ADA Title II Equal Access Policy and Procedure](#)
 - Chapter 6 Clinical and Facilities: [DMHAS Client Grievance Policy](#)
 - [DMHAS Client Grievance Implementing Procedure](#)
 - Chapter 6- Clinical and Facilities: [DMHAS Client Rights Policy](#)
- DMHAS ADA Website: <http://www.portal.ct.gov/dmhas-ADATitleII>
- DMHAS Client Rights and Grievance Website: www.ct.gov/dmhas/crg
- DMHAS DHOH Services Website: <https://portal.ct.gov/DMHAS/Programs-and-Services/Statewide-Services/DMHAS-Office-of-Deaf-Hard-of-Hearing-or-Deafblind>
- [DMHAS ADA Notice](#)
- DMHAS Form: Reasonable Modification Request Form.

Resources

- ADA Coalition of Connecticut: <https://www.adacc.net>
- ADA National Network: Effective Communication, <http://adainfo.us/adacommunication>
- Connecticut Commission on Human Rights and Opportunities: www.ct.gov/chro
- Connecticut Fair Housing Center: <https://ctfairhousing.org/>
- Disability Rights Connecticut: www.DisRightsCT.org
- [2020 Housing and Urban Development Assistance Animal Notice](#)
 - [Equal Rights Center Assistance Animal Toolkit](#).

- New England ADA Center: <https://www.newenglandada.org>
- Statewide Legal Services of Connecticut: <https://slsct.org/>
- United States Department of Justice Civil Rights Division, <http://ADA.gov>

As a federally funded healthcare provider, DMHAS complies with state statutes and federal civil rights law and does not discriminate on the basis of race, color, national origin, age disability or sex. DMHAS provides language assistance for persons with Limited English Proficiency as required by Section 1557 of the 2010 Patient Protection and Affordable Care Act.