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CHAPTER 19: PRISONER RIGHTS		
 <p>STATE of MAINE DEPARTMENT OF CORRECTIONS</p> <p>Approved by Commissioner <i>Joseph Lante</i></p>	PROFESSIONAL STANDARDS: See Section VII	
EFFECTIVE DATE: October 12, 2004	LATEST REVISION: April 21, 2011	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403 and 3031.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

Prisoners have certain rights with respect to programs and services. These rights shall be clearly defined and both prisoners and staff shall be familiar with them.

IV. CONTENTS

Procedure A: Prisoner Rights
Procedure B: Prisoners with Disabilities

V. ATTACHMENTS

None

VI. PROCEDURES

Procedure A: Prisoner Rights

1. Prisoners have the right to expect that they shall be treated respectfully, impartially, fairly and with dignity.
2. Prisoners have the right to be informed, in writing, of the rules and the sanctions for violation of the rules, policies and procedures, and schedules concerning the operation of the facility, provided such information does not jeopardize the safety of persons, security, or orderly management of the facility.

3. Prisoners have the right to not be subjected to corporal punishment, harassment, intimidation, physical, psychological, sexual or verbal abuse, threats, assault or humiliation by other prisoners or staff.
4. Prisoners have the right to be supervised by trained staff and/or trained volunteers only.
5. Prisoners have the right to participate in religious services and religious counseling on a voluntary basis, subject only to the limitations necessary to protect the safety of persons, security, or orderly management of the facility. Prisoners shall have access to clergy, religious publications and related services that assist them to adhere to their religious practices, subject only to the limitations necessary to protect the safety of persons, security, or orderly management of the facility.
6. Prisoners have the right to nutritious food in adequate quantities.
7. Prisoners have the right to adequate professional medical care and adequate professional mental health care, which do not include medical treatment or mental health treatment requested by the client that the facility's treating physician or treating psychologist determines unnecessary.
8. Prisoners have the right to living conditions in which there is an acceptable level of sanitation, ventilation and light.
9. Prisoners have the right to a reasonable amount of sleeping space per person.
10. Prisoners have the right to a reasonable opportunity for physical exercise.
11. Prisoners have the right to a reasonably secure area for the maintenance of permitted personal effects. Prisoners have the right not to be subjected to intentional destruction of or damage to permitted personal effects by other prisoners or staff.
12. Prisoners have the right to a reasonable opportunity to visit with relatives and friends, in accordance with departmental policies and institutional procedures, provided that the department may restrict or prohibit visits when the restriction or prohibition is necessary for the security of the institution.
13. Prisoners have the right to correspond with others, as outlined by Policy 21.2, Prisoner Mail.
14. Prisoners have the right to equal access to facility programs and services without regard to race, religion, national origin, gender, age, sexual preference, disability, or political views.

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15. Programming shall be offered to female prisoners based on unique needs, i.e., comprehensive counseling and assistance for pregnant prisoners to assist them in planning for their unborn child. Additional programs may be offered on a gender specific basis only in terms of content (e.g., personal hygiene). However, in this case, comparable programs shall be afforded to both males and females.
16. Male and female prisoners housed in the same facility shall be housed only with prisoners of the same gender.
17. Prisoners have the right to access a process for the reporting of any problems they have while at the facility, without penalty or threat of penalty (see Policy 29.1, Grievance Process and 29.2, Grievance Process, Medical and Mental Health Care).
18. Reasonable access shall be provided between prisoners and the media, pursuant to Departmental policy (see Policy 1.23). Limitations may be imposed to protect the safety of persons, security, or orderly management of the facility.
19. Foreign nationals shall have access to the diplomatic representative of their country of citizenship. The facility shall facilitate access with diplomatic representatives by assisting the prisoners in contacting diplomatic representatives and by permitting access.

Procedure B: Prisoners with Disabilities

1. In accordance with the Americans with Disabilities Act no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or denied the benefits of the services, programs, or activities of the Department of Corrections. Services, programs and activities include, but are not limited to:
 - a. academic and vocational education
 - b. exercise and recreational activities
 - c. work programs
 - d. mail, telephone, and visiting
 - e. library
 - f. religious services and programs
 - g. reception and orientation
 - h. classification
 - i. food service
 - j. sanitation and hygiene
 - k. health care
 - l. social services
 - m. release preparation and discharge
 - n. disciplinary and grievance procedures
 - o. access to media, courts, counsel and law library

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- p. commissary/canteen
- q. volunteer programs
- r. mental health services

2. Overview of Requirements

- A. Accessibility. The Department shall ensure that facilities are accessible to prisoners with disabilities and other individuals having dealings with the department, meaning:
 - 1. Ensuring all parts of the facilities that are open to or used by the public are accessible to individuals with disabilities;
 - 2. Designing and constructing new facilities to adhere to applicable state and federal accessibility guidelines;
 - 3. Providing programs and services through alternative methods if physical barriers cannot be removed;
 - 4. Maintaining, in operable condition, those features of facilities and equipment that are required to be readily accessible to and usable by prisoners with disabilities;
 - 5. Providing signage at all inaccessible entrances, providing directions to an accessible entrance or to a location providing information about accessibility. The international symbol for accessibility shall be used at all accessible entrances.
- B. Reasonable Modification. The Department shall make reasonable modification to practices and procedures in order to ensure equal access to programs and services, including:
 - 1. providing auxiliary aids and services, such as adaptive equipment, interpreters or readers for hearing or visually impaired prisoners and written materials in alternative formats;
 - 2. providing alternate accessible sites for program, service or activity participation;
 - 3. scheduling or format changes in order to allow disabled prisoners to participate in services offered by the health care department;
 - 4. providing for staff and prisoner access to an appropriately trained and qualified individual who is educated in the problems and challenges faced by prisoners with physical and/or mental impairments;
 - 5. providing programs designed to educate and assist disabled prisoners;
 - 6. providing for the assignment of appropriately trained individuals to assist disabled offenders who cannot otherwise perform basic life functions;
 - 7. providing the equipment, education and support necessary for prisoners with disabilities to perform self-care and personal hygiene in a reasonably private environment.
- C. Integrated Settings. The Department shall administer its programs and services in the most integrated setting appropriate to the needs of qualified individuals

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with disabilities, unless a separate setting is necessary to ensure equal opportunity or for safety or security reasons. An “integrated setting” enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.

D. Equally Effective Communication.

1. Prisoners with disabilities shall have the means to communicate as effectively as non disabled prisoners. The Department shall take steps to ensure a disabled prisoner's communications with staff are as effective as those of nondisabled prisoners.
 2. The Department shall provide auxiliary aids and services required to enable prisoners to have equally effective communication. Such auxiliary aids and services may include providing qualified interpreters, TTY/TDD service, visual aids and any other means of ensuring adequate communication for prisoners with disabilities.
 3. When determining what services or auxiliary aids or equipment are necessary to ensure equally effective communication, consideration shall be given to those measures requested by the prisoner.
3. Interpretive Guidance and Technical Assistance

A complete understanding of the relevant law and policy regarding disabilities, essential eligibility requirements, reasonable modification, undue hardship and direct threat to health or safety is necessary to properly implement and apply this policy.

The Chief Administrative Officer, or designee, may seek technical assistance from the Maine Department of the Attorney General or the Department of Corrections EEO Coordinator when handling requests for modification and otherwise responding to needs of disabled prisoners.

Any prisoner who believes he or she has been discriminated against under the Americans with Disabilities Act, or this policy may use the grievance process or may contact the Department of Corrections EEO Coordinator.

The Chief Administrative Officer, or designee, shall ensure that disabled prisoners have up to date information on how to contact the Department's EEO Coordinator.

VII. PROFESSIONAL STANDARDS

ACA:

ACI – 4-4142 Inmates with disabilities are housed in a manner that provides for their safety and security. Housing used by inmates with disabilities is designed for their use and

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provides for integration with other inmates. Programs and services are accessible to inmates with disabilities who reside in the facility.

- ACI – 4-4169 Reasonable accommodation is made to ensure that all parts of the facility that are accessible to the public are accessible and usable by staff and visitors with disabilities.
- ACI – 4-4277 Written policy, procedure, and practice prohibit discrimination based on an inmate's race, religion, national origin, sex, disability, or political views in making administrative decisions and in providing access to programs.
- ACI – 4-4278 Written policy, procedure, and practice provide that male and female inmates housed in the same institution have separate sleeping quarters but equal access to all available services and programs. Neither sex is denied opportunities solely on the basis of their smaller number in the population.
- ACI – 4-4279 Written policy, procedure, and practice provide for reasonable access between inmates and the communications media, subject only to the limitations necessary to maintain order and security and protect inmates' privacy. Media requests for interviews and the inmate's consent are in writing.
- ACI – 4-4280 Written policy, procedure, and practice provide that foreign nationals have access to the diplomatic representative of their country of citizenship.
- ACI – 4-4281 (MANDATORY) Written policy, procedure, and practice protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.
- ACI – 4-4284 There is a written inmate grievance procedure that is made available to all inmates and that includes at least one level of appeal.
- ACI – 4-4429 Written policy, procedure, and practice prohibit discrimination on the basis of disability in the provision of services, programs, and activities administered for program beneficiaries and participants.
- ACI – 4429-1 Written policy, procedure, and practice provide for staff and offender access to an appropriately trained and qualified individual who is educated in the problems and challenges faced by offenders with physical and/or mental impairments, programs designed to educate and assist disabled offenders, and all legal requirements for the protection of offenders with disabilities.
- ACI – 4-4475 Provision is made to meet the educational and vocational needs of inmates who require special placement because of physical, mental, emotional, or learning disabilities.
- 4-ACRS-1A-14 Male and female offenders do not occupy the same sleeping room.
- 4-ACRS-6A-01 Staff and offenders have access to an appropriately trained and qualified individual who is educated in the problems and challenges faced by offenders with physical and/or mental impairments, programs designed to educate and assist disabled offenders, and all legal requirements for the protection of offenders with disabilities.
- 4-ACRS-6A-03 Offenders are not subjected to corporal or unusual punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping.

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- 4-ACRS-6A-04** Offenders with disabilities are housed in a manner that provides for their safety and security. Housing used by offenders with disabilities is designed for their use and provides for integration with other offenders. Programs and services are accessible to offenders with disabilities who reside in the facility.
- 4-ACRS-6A-05** Offenders are not subjected to sexual harassment.
- 4-ACRS-6B-01** Offenders are not subjected to discrimination based on an offender's race, religion, national origin, gender, disability, or political views.

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