

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE		EFFECTIVE DATE 03/01/2020	NUMBER 04.06.156
SUBJECT DEAF AND/OR HARD OF HEARING PRISONERS		SUPERSEDES DOM 2020-29	
		AUTHORITY MCL 791.203	
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POLICY STATEMENT:

Deaf and/or hard of hearing prisoners shall be provided their preferred method of communication and necessary accommodations to ensure they have full and equal access to the same programs, activities, services and accommodations available to non-deaf and/or non-hard of hearing prisoners.

POLICY:

DEFINITIONS

- A. Qualified Health Professional (QHP): A Physician, Psychiatrist, Nurse Practitioner, Physician Assistant, Psychologist, Social Worker, Licensed Professional Counselor, Dentist or Registered Nurse who is licensed and registered/certified by the State of Michigan to practice within the scope of their training.

GENERAL INFORMATION

- B. All correctional facilities housing deaf and/or hard of hearing prisoners shall offer accommodations related to any prisoner identified by Health Care as having an “H-hearing impaired” Special Accommodation Notice (SAN). The Worksite Offender Americans with Disabilities Act (ADA) Coordinator shall address all non-medical aids and services needed for the deaf and/or hard of hearing prisoner to effectively communicate.
- C. Preferred method of communication of prisoners may include, American Sign Language, Video Remote Interpreter (VRI) or an in-person sign language interpreter, written communication, hearing aids, lip reading, speaking loudly, speaking more pronounced, and/or speaking slowly.

HEARING ASSESSMENT

- D. During initial intake and within seven days of entering the Michigan Department of Corrections (MDOC) prison system, every prisoner with a perceived or reported (including self-reported) hearing impairment shall receive an initial hearing assessment consistent with medical standards. If there is indication of a potential hearing impairment, the prisoner shall be referred to a professionally accredited audiologist to perform a comprehensive hearing assessment. These prisoners shall be provided an H-hearing impaired Special Accommodation Notice (SAN) in accordance with PD 04.06.160 “Medical Details and Special Accommodation Notices” and be housed in a designated facility identified in Attachment A (barring any medical, security or programming needs requiring an alternative housing arrangement as approved by the Correctional Facilities Administration (CFA) Deputy Director or designee) pending this assessment. Any deaf and/or hard of hearing prisoner who was not assessed according to the requirements of this paragraph at their initial intake, or who requires reassessment due to perceived or reported changes in hearing, shall be assessed by a QHP at the prisoner’s request, or by the Audiologist with the referral of a QHP, according to the requirements of this paragraph. Any prisoner provided a SAN as H-hearing impaired after their initial intake shall be referred, in writing, by Health Care staff to the Worksite Offender ADA Coordinator within one business day.

HOUSING DEAF AND/OR HARD OF HEARING PRISONERS

- E. Accommodations for deaf and/or hard of hearing prisoners are outlined in Attachment A “Deaf and/or Hard of Hearing Related Special Accommodation Notices (SAN).” Unless there is an approved safety,

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security, medical, or programming need, or an unanticipated emergency, prisoners are to be housed as identified in Attachment A based on an individual assessment for medical and non-medical auxiliary aids and services for effective communication. Approval of the CFA Deputy Director or designee is required before transferring any H-hearing impaired prisoner to a non-designated facility if the placement is not in accordance with Attachment A. If the CFA Deputy Director or designee approves the transfer to a non-designated facility, the receiving facility's Worksite Offender ADA Coordinator shall notify the Statewide Offender ADA Coordinator of the prisoner's arrival no later than the next business day. Whenever a deaf and/or hard of hearing prisoner is requested for any transfer the following notifications shall be made:

1. The Health Unit Manager (HUM) or designee at the sending facility shall notify the transfer coordinator at the sending facility of the prisoner's H-accommodation.
2. The transfer coordinator at the sending facility shall notify the transfer coordinator at the receiving facility of the prisoner's H-accommodation, and ensure the accommodations can be met at the receiving facility in accordance with Attachment A.
3. The transfer coordinator at the receiving facility shall notify the Worksite Offender ADA Coordinator and HUM at the receiving facility in writing of the prisoner's destination and scheduled arrival date (if possible).

The notification of the prisoner's hearing impairment, and the CFA Deputy Director's approval if necessary, shall be documented in the comments section of the Transfer Order (CSJ-134).

- F. Within two business days of a deaf and/or hard of hearing prisoner's arrival, the Worksite Offender ADA Coordinator or designee shall meet with the prisoner to determine their non-medical accommodation needs and take all reasonable steps to ensure the prisoner is provided appropriate accommodations. The Worksite Offender ADA Coordinator shall also ensure the prisoner is provided substantially equal access to MDOC programs, activities, and services, and receives an overview to auxiliary aides and services. The prisoner's completion of the overview to auxiliary aides and services shall be documented by the Worksite Offender ADA Coordinator on the Checklist for Prisoner ADA Accommodations (CSJ-572).
- G. All deaf and/or hard of hearing prisoners shall be housed in housing units in accordance with the facilities fire/evacuation operating procedure.

TRAINING

- H. All facility staff shall receive training in accordance with the training plan, on how to appropriately manage deaf and/or hard of hearing population. The Corrections Academy and New Employee Training School shall also provide training on how to appropriately manage the deaf and/or hard of hearing population to all new MDOC hires. Volunteers and contractors may also receive training as appropriate.

IDENTIFICATION CARDS FOR DEAF AND/OR HARD OF HEARING PRISONERS

- I. When a prisoner is identified as being deaf and/or hard of hearing, the MDOC shall take appropriate steps to ensure their identification card indicates that they are deaf and/or hard of hearing. Staff who have regular contact with deaf and/or hard of hearing prisoners shall be shown where to find the deaf and/or hard of hearing identifier on the identification card. It is the responsibility of the prisoner to present the identification card to staff as necessary.
- J. Housing unit count boards shall have the names and numbers identified of all the prisoners in that housing unit with a SAN of H-hearing impaired. Additionally, these prisoners shall have a door card on or near their living area with, at minimum, their name, number, and a blue dot (roughly the size of a quarter) placed on the card.

POSTINGS

- K. Facilities housing deaf and/or hard of hearing prisoners shall post in a prominent location (e.g., front desk) a notice clearly stating that the facility houses deaf and/or hard of hearing prisoners and that the deaf and/or hard of hearing prisoner's identification card notes that they are deaf and/or hard of hearing. The notice shall include a picture of a sample identification card. The notice shall also be posted in each housing unit where deaf and/or hard of hearing prisoners are housed.
- L. The contact information for both the Worksite Offender ADA Coordinator and the McBride Settlement Agreement Monitors shall also be prominently posted in a secure area in the housing unit(s) in which deaf and/or hard of hearing prisoners are housed.

AUXILIARY AIDS AND SERVICES ASSESSMENT

- M. After a determination is made that a prisoner is deaf and/or hard of hearing, Health Care staff, which may include a professionally accredited audiologist, shall determine if auxiliary aids and services are medically necessary and facilitate ordering those aids and services as provided in PD 04.06.160 "Medical Details and Special Accommodation Notices." The Worksite Offender ADA Coordinator shall address all non-medical aids and services needed for effective communication by prisoners who have an accommodation for H-hearing impaired. The MDOC shall provide hearing impaired prisoners with access to auxiliary aids and services in accordance with this policy, including Attachment A, based on the prisoner's accommodation needs.
- N. Health Care staff at the facility where the Deaf or Hard of Hearing Prisoner is housed shall be responsible for facilitating the repair, replacement, and adjustment of medical devices such as hearing aids and shall be responsible for ensuring the delivery of the device in accordance with PD 04.06.160 "Medical Details and Special Accommodation Notices." If the prisoner experiences any problems with their medical devices, they shall notify Health Care staff by submitting a Health Care Request form (CHJ-549). Health Care staff shall begin to resolve the issue within two business days of receipt of the CHJ-549 and shall attempt to resolve any issues as promptly as possible. If there is a delay caused by third-party vendors outside of the MDOC's control, Health Care staff shall provide status updates to the prisoner until the issue is resolved. The MDOC shall pay for shipping costs associated with the repair and replacement of medical devices. Prisoners who suffer bilateral hearing loss shall be offered hearing aids for both ears as appropriate.
- O. If a deaf and/or hard of hearing prisoner indicates that they do not require medically necessary auxiliary aids and services, they shall sign a waiver refusing the aids and services and the waiver shall be documented in the prisoner's health record. Waivers for medically necessary aids and services shall be coordinated by medical staff. If a deaf and/or hard of hearing prisoner indicates they do not require non-medical auxiliary aids and services, the waiver shall be documented on the Checklist for Prisoner ADA Accommodations (CSJ-572). Waivers for non-medical aids or services shall be coordinated by the Worksite Offender ADA Coordinator. No prisoner may be coerced, pressured, or compelled to sign a waiver.
- P. If a prisoner is found to have a hearing impairment at intake or at a later hearing assessment, and refuses or does not request auxiliary aids and services, but later believes that auxiliary aids and services are necessary to ensure effective communication, they may submit a request for auxiliary aids and services using the process outlined in PD 04.06.155 "Offenders with Disabilities" even if the prisoner has previously signed a waiver. The MDOC shall provide a prisoner who was initially not found to have a hearing impairment with a hearing assessment by an Audiologist if ordered by Health Care staff.

EFFECTIVE COMMUNICATION

- Q. Wardens shall ensure that there is a system in place that notifies facility staff how prisoners who have an H-hearing impaired accommodation prefer to communicate as documented on the most recent Checklist for Prisoner ADA Accommodations (CSJ-572). This information shall be readily available and accessible for facility staff on their assignments. Staff shall ensure the prisoner's preferred method of communication is used during the prisoner's participation in a program, service, or activity.
- R. Any person-to-person communication noted in Paragraph S numbers 1 - 14 with a prisoner who has a H-accommodation shall be documented as set forth in that paragraph. The documentation shall note what steps were taken to ensure communication with the deaf and/or hard of hearing prisoner was effective. Documentation shall include the means of communication (e.g., VRI, in-person sign language interpreter, written communication, verification of operational hearing aids, lip reading, speaking loudly, speaking more pronounced, speaking slowly, etc.) and how the staff member determined the communication was effective.

QUALIFIED SIGN LANGUAGE INTERPRETERS

- S. The MDOC shall provide prisoners with an ADA-American Sign Language (ASL) SAN access to qualified interpreters either in person or via VRI in the following circumstances:
1. Communications to, and interviews with, prisoners regarding their healthcare, including dental, vision, audiological, and mental healthcare (effective communication documentation noted in the prisoner health record);
 2. Communications to, and interviews with, prisoners for Parole Board hearings, Parole Eligibility Report (PER) preparations, Parole Board interviews, parole violation hearings, and Institutional Parole Agents/transitional programming (effective communication documentation noted in OMNI case notes or other reports as appropriate);
 3. Disciplinary hearings, investigative interviews, and any other communications with deaf and/or hard of hearing prisoners as part of the MDOC's investigatory or disciplinary processes for alleged misconduct or violations of law, policy, or other requirements. This includes communications with deaf and/or hard of hearing prisoners who are suspected of, charged with, or witness to, disciplinary misconduct or violations (effective communication documentation placed on the misconduct reports during the review process, the hearing report, appeal forms (if interviewed), or other reports as appropriate);
 4. During Core programming as defined in Attachment A of PD 05.01.100 "Prisoner Program Classification (effective communication documentation placed on progress or completion reports if the prisoner is interviewed or other reports as appropriate);
 5. For administrative hearing proceedings, including required notices (e.g. Notice of Intent to Conduct an Administrative Hearing) (effective communication documentation placed on the Notice of Intent to Conduct an Administrative Hearing (CSJ-282) or other reports as appropriate);
 6. Communications to, and interviews with, prisoners during the grievance process (effective communication documentation placed on all forms associated with the grievance process, PREA complaints, State Administrative Board claims, etc. or other reports as necessary);
 7. Communications with the legal writer if approved to receive services from the Legal Writer Program (If effective communication is not obtained, the prisoner shall report the issue(s) to the Worksite Offender ADA Coordinator);
 8. During prisoner orientation, at both intake and receiving facilities, including any forms,

multi-media, or educational information provided regarding the Prison Rape Elimination Act (PREA) (effective communication documentation placed on the verification of orientation attendance or other reports as appropriate);

9. Program classification and Security Classification Committee interviews (effective communication documentation placed on the Program Classification Report (CSX-175), Security Reclassification Notice (CSJ-423), Segregation Behavior Review (CSJ-283), or other reports as appropriate.
 10. Any prison work/job-assignment related training for matters that are outside the routine day-to-day schedule (effective communication documentation placed on the Prisoner Worker Safety Training Record (CAJ-900), Prisoner Program and Work Assignment Evaluation (CSJ-363), or other reports as appropriate);
 11. Formal meetings with facility administration or housing unit staff (effective communication documentation placed on reports as appropriate if a form is completed as a result of the communication);
 12. Group religious services, whether organized by MDOC or by volunteers (If effective communication is not obtained, the prisoner shall report the issue(s) to the Worksite Offender ADA Coordinator);
 13. Individual (one-on-one) religious programs with clergy if requested by the prisoner and agreed to/approved by the qualified clergy that is to conduct the religious program, provided that the program is scheduled and coordinated by the facility chaplain or designee (effective communication documentation placed on reports as appropriate if a form is completed as a result of the communication); and
 14. Any significant communications that are not discussed in 1 - 13 above that would otherwise be communicated to a prisoner that is not deaf or hard of hearing. A significant communication includes any communication for which the risks of miscommunication or misunderstanding are significant, and the consequences of miscommunication/misunderstanding would have significant negative repercussions for the deaf and/or hard of hearing prisoner (effective communication documentation placed on reports as appropriate if a form is completed as a result of the communication).
- T. When a deaf and/or hard of hearing prisoner requests to attend a service or program the Worksite Offender ADA Coordinator or designee may be contacted to request a qualified interpreter assist them or request auxiliary aides and services. For prisoners whose preferred method of communication is not sign language, staff shall ensure the prisoner's preferred method of communication is used during the prisoner's participation in the program, service, or activity.
- U. The MDOC shall be responsible for scheduling and overseeing the provision of qualified interpreters. Every effort shall be made to utilize VRI. An in-person qualified interpreter shall be provided if requested by a prisoner and a QHP or Worksite Offender ADA Coordinator, in consultation with the prisoner, determines that the prisoner is unable to effectively communicate via VRI. An in-person interpreter shall be used in lieu of VRI during communication encounters that occur from the time of the prisoner's request to the time a QHP medically supports, or does not support, the prisoner's request.

OFF-SITE MEDICAL CARE

- V. When scheduling off-site medical care, including appointments to Duane Waters Health Center (DWHC) Specialty Clinics, Health Care staff shall inform the off-site medical provider that a deaf and/or hard of hearing prisoner requires a qualified interpreter or other auxiliary aids or services. The notification shall be documented on the Consultation Request.

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- W. In the case of an emergency, MDOC staff shall, as soon as possible, inform an off-site medical provider that a deaf and/or hard of hearing prisoner requiring a qualified interpreter or other auxiliary aid or service is being transported to the off-site medical provider. Notification shall include the deaf and/or hard of hearing prisoner's estimated time of arrival. MDOC staff shall request that the off-site medical provider make available to the deaf and/or hard of hearing prisoner a qualified interpreter and/or other reasonable auxiliary aids or services. The Prisoner Detail (CSX-225) shall note that the prisoner is deaf and/or hard of hearing and note their preferred method of communication.

WORK ASSIGNMENTS

- X. The MDOC shall provide opportunities for institutional work assignments that are consistent with the opportunities for the same assignment given to non-deaf and/or hard of hearing prisoners.

RELIGIOUS SERVICES

- Y. No deaf and/or hard of hearing prisoner shall be required to attend a religious service where an interpreter or the prisoner's preferred method of communication is not provided in order to receive any religious meal, diet, or otherwise offered religious accommodation.

NON-AUDITORY ALARMS AND EMERGENCY EVACUATIONS

- Z. Each facility housing deaf and/or hard of hearing prisoners shall have a non-auditory alert system in place to advise deaf and/or hard of hearing prisoners of an emergency evacuation or other emergency. The non-auditory alert system may include in-person contact/communication between staff and the deaf and/or hard of hearing prisoner to notify them of emergencies in real-time. Additionally, those facilities designated to house the deaf and/or hard of hearing population (excluding WCC) shall have a non-auditory alert system that includes electronic messages through the Page Alert Broadcast System (PABS) and notification lights as needed. Facilities utilizing the PABS shall send electronic messages for any announcements that are sent through the integrated audio system (Public Address System) including personal notifications (prisoner visits, non-scheduled callouts, etc.), and log the sending of these messages in the appropriate logbook or other document. Additionally, facility staff shall document once per shift that the date and time on the PABS are set appropriately. Any discrepancies noted shall be reported and corrected as soon as possible. Facilities shall also add to their preventative maintenance plan a process to ensure that the continuous battery back-up attached to the PABS is operating as intended or is replaced as needed. These facilities are also responsible to ensure that there are enough pagers to be issued to the prisoner population and that the system is operating as intended. If the system is not operating as intended, a maintenance request shall be entered immediately as well as a written communication to the Worksite Offender ADA Coordinator, and employees must provide effective non-auditory notification of announcements to deaf and/or hard of hearing prisoners while the system is not operational (e.g., whiteboard, notepad).

TELECOMMUNICATIONS

- AA. Teletypewriter (TTY) and telecommunications device for the deaf (TDD) shall be available at all correctional facilities housing deaf and/or hard of hearing prisoners. Additionally, Video Relay Services (VRS) shall be available at facilities designated to house deaf and/or hard of hearing prisoners or other non-designated facility housing units as needed. There shall be no charge assessed to the prisoner or prisoner's family member or other party.
- BB. The MDOC shall provide deaf and/or hard of hearing prisoners with access to telecommunication devices that enable them to communicate with people outside of the MDOC in a manner that is substantially equivalent in terms of the amount and quality of the information conveyed, as well as the expense incurred by the prisoner to the communications that non-deaf and/or hard of hearing prisoners have with people outside of the MDOC using traditional telecommunication devices such as telephones. This provision does not apply to charges incurred by prisoners' family and friends for use of third-party

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telecommunications providers. Prisoners eligible to utilize VRS must complete a Telephone Agreement and Number List (CAJ-370) to have numbers added to their Personal Access Numbers listing prior to calls being made. All VRS, TTY, and TDD systems shall be tested by the prisoner telephone vendor at least monthly. If any of these systems are not operating as intended, the prisoner telephone vendor shall be notified immediately. All training on the use of these systems to prisoners and staff shall be coordinated by the Worksite Offender ADA Coordinator or designee as necessary.

MONITORING COMMUNICATIONS

- CC. Telephone and videophone calls between deaf and/or hard of hearing prisoners and individuals outside of the MDOC shall be monitored as provided in PD 05.03.130 "Prisoner Telephone Use." The MDOC shall monitor such calls in the same manner and to the same extent as any other prisoner call under PD 05.03.130 and shall not increase such monitoring solely because the call involves a deaf and/or hard of hearing prisoner. Any recorded audio phone call, recorded VRS session, TTY call, or recorded person-to-person video-phone call, including any related video feed or transcript may also be monitored. Prisoners using the VRS system are subject to restrictions set forth in PD 05.03.130. Additionally, "Person to Person" video calls are subject to telephone restrictions for any conduct that would terminate an in-person prisoner visit (e.g., nudity, obscene actions, etc.) in accordance with PD 05.03.140 "Prisoner Visiting" and the CFA Visiting Standards.
- DD. Communication between deaf and/or hard of hearing prisoners and Settlement Monitors for the McBride lawsuit shall not be monitored.

ADDITIONAL TIME FOR COMMUNICATION

- EE. The MDOC shall allow deaf and/or hard of hearing prisoners at least twice as many minutes to complete a TTY/TDD call or videophone call relying on VRS/Videophone services as the number of minutes afforded to non-deaf and/or hard of hearing prisoners to make calls using traditional telecommunication devices such as telephones.

MEDIA

- FF. All audio-visual media purchased by the MDOC, or the Prisoner Benefit Fund (PBF), for prisoner use in facilities housing deaf and/or hard of hearing prisoners shall include open and closed captioning. Captioning shall be turned on, and remain on, in housing units where deaf and/or hard of hearing prisoners are housed.

HAND RESTRAINTS

- GG. Unless there is a documented safety and security concern, deaf and/or hard of hearing prisoners shall be permitted to use their hands for effective communication (e.g., signing, writing, etc.).

PROCEDURES

- HH. If necessary, to implement requirements set forth in this policy directive, Wardens shall ensure that procedures are developed or updated.

AUDIT ELEMENTS

- II. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

ATTACHMENTS

- JJ. Attachment A - Deaf and/or Hard of Hearing Related Special Accommodation Notices (SAN)

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ATTACHMENT A

Deaf and/or Hard of Hearing Related Special Accommodation Notices (SAN)

Medically Based SAN - Note: Prisoner housing requirements are not determined solely by these accommodations.

- H - Indicates the prisoner has a hearing impairment. All prisoners identified with a hearing impairment of 25 decibels or more will be provided this accommodation.
- N - Indicates that, per the audiogram, the prisoner may be housed at a non-designated facility barring any non-medical ADA SAN.
- HA - Hearing Aid Issued.

All Correctional Facilities are required to have the ability to accommodate prisoners with the following non-medical accommodations for the deaf and/or hard of hearing prisoner population (These accommodations are in addition to the identification requirements of deaf and/or hard of hearing prisoners outlined in PD 04.06.156):

- ADA-ALD - Assistive Listening Devices
- ADA-SL - Speak Loudly
- ADA-LR - Lip Reading
- ADA-WOS - Waiver of Services and non-medical auxiliary aids (prisoner Waiver)
- ADA-PA - Phone Amplification Device
- ADA-TTY - Text Telephone / Teletype Terminal / Telecommunication Device for the Deaf
- ADA-WWC - Written Words Communication

Sites Designated to House the Deaf and Hard of Hearing – Prisoners with the below noted SAN's must be housed in one of the below correctional facilities. Exceptions may include approved medical, security, or programming needs. Designated facilities can accommodate these additional Non-Medical SANs.

- ADA-PABS - Page Alert Broadcast System
 - ADA-VRS - Video Relay Service (Prisoner telephone system)
 - ADA-ASL - American Sign Language (Including the use of Video Remote Interpreting (VRI))
 - ADA-DS - Designated Site Override – Administrative override requiring the prisoner's placement in a designated site for safety and security considerations as approved by the State-wide ADA Coordinator.
1. Carson City Correctional Facility (DRF)
 2. Detroit Reentry Center (DRC)
 3. G. Robert Correctional Facility (JCF)
 4. Parnall Correctional Facility (SMT)
 5. Saginaw Correctional Facility (SRF)
 6. Thumb Correctional Facility (TCF)
 7. Women's Huron Valley Correctional Facility (WHV)
 8. Woodland Center Correctional Facility (WCC)
 - a. Not including prisoners housed in Level I population
 - b. Exempt from Page Alert Broadcast System, prisoners with the ADA-PABS SAN may be housed at WCC.

***NOTE: Non-Medical SANs as noted and approved on the CSJ-572 Checklist for Prisoner ADA Accommodations. ***

Additional information regarding the procurement of equipment to accommodate the deaf and/or hard of hearing can be obtained by contacting the Statewide Offender ADA Coordinator.