



**TENNESSEE DEPARTMENT OF HEALTH
POLICY REGARDING EQUAL ACCESS FOR PERSONS WITH DISABILITIES**

1.0 Policy

The Tennessee Department of Health (“TDH” or “the Department”) is committed to providing persons with disabilities an equal opportunity to participate and equally effective communication when accessing the Department’s programs, services, activities, and other benefits available to the public.

1.1 Disability Access

Specifically, it is the policy of the Department:

- 1.1.1 To make reasonable modifications in policies, practices and procedures when modifications are necessary to ensure the Department does not discriminate against individuals with disabilities, unless the Department can demonstrate that making the modification would fundamentally alter the nature of the service, program or activity;
- 1.1.2 To ensure equally effective communication at no cost for applicants, participants, members of the public and companions with disabilities through the provision of appropriate auxiliary aids and services, giving primary consideration to the customer’s requested aid or service;
- 1.1.3 To administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities; and,
- 1.1.4 To notify the public about the availability of free auxiliary aids and services and other reasonable modifications and how to request these services, including how to file a grievance.

AUTHORITY

This Policy is published under the authority of the Tennessee Department of Health and in compliance with the following:

- 2.1** Title II of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C., as Amended by the ADA Amendments Act of 2008 (ADA Amendments Act) [(Public Law 110-325, 122 Stat. 3553 (2008))] at 28 CFR 35



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- 2.2 Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181-12189), as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) [Public Law 110-325, 122 Stat. 3553 (2008)] at 28 CFR 36
- 2.3 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 *et seq.* at 7 CFR 15b and 45 CFR 84

3.0 SCOPE

This policy applies to the Department and its contractors and subrecipients which provide services or benefits to the public, regardless of whether the entity receives federal funds.

4.0 DEFINITIONS

- 4.1 **Auxiliary Aids and Services** – Includes, without limitation, qualified sign language interpreters, telephone handset amplifiers, assistive listening devices closed caption decoders, real time captioning, TTY/TTD relay services for deaf and hard-of-hearing; screen reader software, Braille Embossers, text to Braille converter, large print materials, alternative keyboards for individuals who are blind and have low vision; and acquisition of modification of equipment or devises and other similar actions. This list is not exhaustive.
- 4.2 **Braille** – A system of touch reading for the blind that employs embossed dots evenly arranged in quadrangular letter spaces or cells. In each cell, it is possible to place six dots, three high and two wide.
- 4.3 **Companion** – Any family member, friend, or associate of a person seeking or receiving an entity’s goods or services who is an appropriate person with whom the entity should communicate.
- 4.4 **Disability** – A person with a disability is a person with a physical or mental impairment that substantially limits one or more major life activity; a person who has a record of such an impairment; or a person who is regarded as having such an impairment.
- 4.5 **Interpretation** – The act of listening to or receiving communication in one language (source language) and converting it to another language (target language) while retaining the same meaning. Interpreting is the process of understanding and



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analyzing a spoken or signed message and re-expressing that message effectively, accurately and impartially, in another language, using any necessary specialized vocabulary, taking the social and cultural context into account.

- 4.6 Language** – Refers to a system of communication by which an individual communicates with another that may involve words, sounds, and hand gestures.
- 4.7 Qualified Individual with a Disability** – An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department.
- 4.8 Qualified Interpreter** - An interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued language transliterators.
- 4.9 Qualified Reader** – A person who can read effectively, accurately, and impartially using any necessary specialized vocabulary.
- 4.10 Reasonable modification** - A change or exception to a policy, practice, or procedure that allows people with disabilities to have equal access to programs, services and activities. A reasonable modification can also be a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.
- 4.11 Service Animal** – A dog that is individually trained to do work or perform work tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Although not a service animal, a miniature horse that is individually trained to do work or to perform tasks for an individual with disabilities have the same protections as a service animal.
- 4.12 TDD** – Telecommunications Device for the Deaf – A device that allows conversation to take place over the telephone by sending typed messages through phone lines to the EDD screen.
- 4.13 TDH** – Tennessee Department of Health



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- 4.14** **TTY** – A teletypewriter, a precursor to the TDD, is a Mechanical Teletypewriter for the Deaf and speech impaired.

- 4.15** **Telecommunication Relay Service (TRS)** – A telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico and the U.S. territories for local and/or long-distance calls. Other forms of TRS include text-to-Voice TTY-based TRS, Voice Carry Over, Speech-t-Speech Relay Service, Shared Non-English Language Relay Services, Captioned Telephone Service, IP Captioned Telephone Service, Internet Protocol Relay Service, Video Relay Service (VRS) and 711 Access to TRS.

- 4.16** **Translator** – A person who represents letters or words in the corresponding characters or another alphabet. The term is commonly used to designate a person who transcribes written documents into Braille.

- 4.17** **Transliterater (Oral)** - An oral transliterater provides communication access to a person who is deaf or hard of hearing and who uses speech reading and speaking as a means of communicating. A qualified speech-to-speech transliterater is a person trained to recognize unclear speech and repeat it clearly.

- 4.18** **Video Relay Service (VRS)** – A subscriber-based service for people who use sign language and have videophones, smart phones, or computers with video communication capabilities.

- 4.19** **Video Remote Interpreting (VRI)** – A fee-based service that uses video conferencing technology to access an off-site interpreter to provide real-time sign or oral interpreting services for conversations between hearing people and people who are deaf or have a hearing loss.

- 4.20** **Wheelchairs, Mobility Aids and Other Power-Driven Mobility Devices** – A device that assists people with mobility, circulatory, respiratory, or neurological disabilities and are ensured access to areas where members of the public are allowed.

5.0 RESPONSIBILITIES

- 5.1** The TDH Office of General Counsel is responsible for issuing and updating, as appropriate, procedures to implement this policy.



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- 5.2 The TDH Office of Procurement (SPP@tn.gov) is responsible for making available and distributing a list of vendors that provide qualified interpreters (sign and other types), oral transliterators, Brailled materials, and other auxiliary aids and services under contract with the State through the TDH Administrative Services Division.
- 5.3 The TDH Civil Rights Compliance Officer is responsible for creating and making available multi-lingual posters providing notice of the availability of free reasonable modifications and auxiliary aids and services and how to request them.
- 5.4 The responsibility for implementing this policy lies with the Division director and the managers of each TDH program that offers services or benefits to individual members of the public.
- 5.5 The responsibility for coordinating and monitoring the implementation of this policy lies with the TDH Civil Rights Compliance Officer, who also services as the Department’s Section 504/ADA Coordinator.

6.0 ASSISTANCE TO PERSONS WITH DISABILITIES

6.1 Each TDH program that offers services or benefits directly to members of the public, must develop written policies and procedures that are consistent with this disability access policy and provide individuals with disabilities with an equal opportunity to participate in the Department’s programs, services and activities. Program policies and procedures require staff to make reasonable modifications in policies, practices and procedures to ensure that they do not discriminate against individuals with disabilities. This includes policies and procedures for ensuring equally effective communication through the provision of auxiliary aids and services.

6.2 Key Elements of Disability Access Policies and Procedures

Well-designed disability access policies and procedures will address the following:

6.2.1 Section 504/ADA Coordinator

Each program must designate at least one Section 504/ADA Coordinator at the Department level to implement and coordinate Section 504/ADA requirements for each program. These program-specific Section 504/ADA Coordinators will collaborate with the TDH Civil Rights Compliance Officer,



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who also service as the Department’s Section 504/ADA Coordinator, to ensure program-specific disability access policies and plans are consistent with this policy. Additionally, each local-level program must designate a point of contact to implement and coordinate program-specific disability access policies and procedures under the direction of the program-level Section 504/ADA Coordinator.

Section 504 requires recipients with more than 15 employees to designate a Section 504 Coordinator. The ADA requires state and local governments that have 50 or more employees to designate at least one person to serve as the ADA Coordinator. In any case, the name, office address, and telephone number for the Section 504/ADA Coordinator must be provided to all interested parties.

6.2.2 Self-Evaluation of Services

Within one (1) year of the effective date of this policy and every three (3) years thereafter, each program must evaluate all services, policies and practices to determine if they ensure persons with disabilities are provided with an equal opportunity to participate through provision of reasonable modifications and equally effective communication. The Department recommends involving interested persons and persons with disabilities or organizations representing persons with disabilities to participate in the self-evaluation process by submitting comments.

Each program will submit the results of their self-evaluation to the Department’s Section 504/ADA Coordinator. The report will include (1) a list of the interested persons consulted; (2) a description of areas examined, and any problems identified; and (3) a description of any modifications made.

For at least three (3) years following each program’s self-evaluation, the Department’s Section 504/ADA Coordinator must maintain a file containing the program self-evaluation results. Programs that employ 50 or more employees must also develop a transition plan for making structural changes or alterations to its facilities, websites, and online automated benefits systems to ensure program accessibility.

Additionally, each program must evaluate services, policies and practices during required reviews for program access. If the reviewer determines the



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reviewed entity lacks the resources necessary for equal access or is noncompliant with federal regulations, this disability access policy and/or program-specific procedures, the program-level Section 504/ADA Coordinator must notify the Department's Section 504/ADA Coordinator in writing of the noncompliant matter and recommend appropriate corrective actions.

6.2.3 Individualized Assessment of Need

A person is an individual with a disability if the person has a physical or mental impairment that substantially limits one or more major life activity, has a record of an impairment or is regarded as having such an impairment. The impairment does not need to prevent or severely restrict a major life activity.

Section 504 and the ADA clarify that each person needs an individualized assessment. What modification may work for one individual with a disability may not work for another. The Department and its programs must provide the aid, benefit or service that is as equally effective in affording equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement in the most integrated setting appropriate, as that provided to others.

6.2.4 Signage and Notices

Each program must provide the public with effective notice about the availability of reasonable modifications and auxiliary aids and services and how to request them in a format that individuals with disabilities can understand. Waiting rooms, intake areas, reception areas and program websites and online benefits systems should contain a large, easy to read multilingual notice informing customers of their right to request free reasonable modifications and auxiliary aids and services. Important notices and directional signs should be made available in alternative formats such as large print, audio, or Braille for persons with sight impairments.

The Department also encourages posting of notice through program brochures, booklets, local newspapers (including non-English newspapers), job fair leaflets, radio/television announcements, and other forms of outreach. In addition, notices should be pasted or made available to advise customers of the procedures for making complaints about access or to provide directions or information about the services available.



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6.2.5 Grievance procedures

Each of the Department's programs must have a grievance procedure to respond to complaints of discrimination based on disability. This procedure must be approved by the Department and, in some cases, by the federal government (e.g., USDA programs). Some programs have complaints processing procedures that their Federal funding agency has authorized. In either case, the disability access policies and procedures must include the program's complaint processing procedures.

6.2.6 Equally Effective Communication

The Department requires its programs to ensure communications with persons with disabilities are as effective as communication with others through the provision of auxiliary aids and services such as qualified sign language interpreters, readers note takers, assistive listening systems and devised, open and closed captioning, text telephones (TTYs), videophones, information provided in large print, Braille, audible, or electronic formats, and other tools for people who have communication disabilities.

Program policies and procedures should notify its staff about the availability of these resources and how to obtain them in a timely manner. These aids and services assist individuals who are deaf, deaf and hard-of-hearing, deaf-blind, blind, low-vision, or who have speech disabilities.

The Department requires its programs to ensure equally effective communication for companions with disabilities. A companion is defined as any family member, friend, or associate of a person seeking or receiving an entity's goods or services who is an appropriate person with whom the entity should communicate.

In choosing the appropriate auxiliary aid or service, give primary consideration to the auxiliary aid or service requested by the customer or companion with disabilities. In addition to giving primary consideration to the customer's choice, State and local government entities must honor that choice, unless they can demonstrate that another equally effective means of communication is available, or the requested aid or service would result in a fundamental alteration if provided. Additionally, take into consideration the nature,



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length, and complexity of communication. If the Department contracts with a nongovernmental entity to provide services (public accommodation). They are encouraged to consult with and discuss which aid or service will ensure equally effective communication.

The Department's programs must not require individuals with disabilities to supply their own sign language interpreter or other aid or service. If a customer chooses to rely on their companion for communication assistance, programs cannot rely on the accompanying adult to interpret or provide other communication assistance if there is a reason to doubt the person's impartiality, effectiveness, or confidentiality. Programs cannot rely on the accompanying adult if the adult is hesitant or not willing to provide communication assistance.

The Department's programs must not rely on minor children to interpret or assist with communication unless there is an emergency involving an imminent threat to the safety or welfare of an individual or the public and no qualified interpreter is available.

6.2.7 Waiver of Rights to Free Auxiliary Aids and services

Some programs ask persons with disabilities who choose to use their own interpreter to voluntarily sign a waiver of right to free interpreter services form. If programs utilize this method to document the use of family or friends as interpreters, in all cases, staff must offer to provide a qualified interpreter at no cost to the individual with disability before requesting the customer's signature. Notify the person with a disability that eligibility for the Department's programs and services is not affected by signing or not signing this waiver. A new waiver is signed for each visit with the customer.

Where precise, complete, and accurate interpretation is vital for program access or adjudicatory or legal reasons, or where the competency of the informal interpreter is not established, staff must provide a qualified sign language interpreter even if the customer wants to use his or her own interpreter.

6.2.8 Service Animals and Miniature Horses



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A service animal is defined as a dog that is individually trained to do work or perform tasks for a person with a disability. The Department and its programs must permit service animals to accompany persons with disabilities in all areas where members of the public are allowed to go. “Comfort”, “therapy”, or “emotional support” animals that have not been individually trained to perform specific tasks for a person with a disability do not meet the ADA definition of service animal.

The ADA does not require service animals to be certified, licensed, or registered as a service animal. Wearing service animal vests, patches or specific types of harnesses is optional. When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions:

- a. Is the dog a service animal required because of a disability?
- b. What work or task has the dog been trained to perform?

Staff cannot ask about the person’s disability, require medical documentation, require a specific identification card or training document for the dog, or ask that the dog demonstrate its ability to perform the work or task.

A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal’s presence.

Although not a service animal, a miniature horse that is individually trained to work or perform tasks for people with disabilities has protections similar to a service animal. In addition to the requirements for service animals, when determining whether to allow a miniature horse into a specific facility, a program may consider:

- a. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- b. Whether the owner has control of the miniature horse;
- c. Whether the miniature horse is housebroken; and



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- d. Whether the miniature horse’s presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

6.2.9 Wheelchairs, Mobility Aids and Other Power-Driven Mobility Devices

The Department’s programs must ensure accessibility to the program, particularly to persons in wheelchairs, mobility aids and with Other Power-Driven Mobility Devices (OPDMD). People with mobility, circulatory or respiratory disabilities may require such devices. Programs must allow people with disabilities into all areas where the public is allowed to go when they present with one of these devices.

6.2.10 Accessible Environments, Websites and Online Automated Benefit Systems

It is imperative that websites, including state and local agency websites, and online application systems are readily accessible to and useable by persons with visual, hearing and other disabilities. All facilities, rooms, and areas that are open to the public or to which members of the public might be brought, must be accessible to persons with disabilities, including persons using wheelchairs, crutches and canes. Directional signs in Braille should be posted and informational videos should be closed captioned. The Department and its programs will comply with the 2010 ADA Standards and the 1991 ADA Standards for Accessible Design.

6.2.11 Fundamental Alteration

The Department and its programs must make reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. A reasonable modification is a change or exception to a policy, practice, or procedure that allows people with disabilities to have equal access to programs, services and activities. A reasonable modification can also be a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.



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The Department and its programs are not required to make a modification if the Department can demonstrate that making the modification would fundamentally alter the nature of the service, program or activity. Additionally, if the modification requested would cause undue financial burden on the program or activity to the level that it would make continued operation of the program unfeasible, the modification need not be provided. However, denying a modification(s) under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services. The Department and its programs still must provide services to the person with a disability to the maximum extent possible.

The decision that an aid or service would result in an undue burden or fundamental alteration must be made by the TDH Commissioner's designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Programs are advised to consult with the TDH Office of General Counsel before relying on this exception.

7.0 Training

Each staff member who is in contact with members of the public should be trained on this disability access policy at the employee's initial orientation and at regular intervals thereafter. Training must ensure staff know how to respond to requests for reasonable modifications and auxiliary aids and services for persons with disabilities.

8.0 Monitoring and Re-Assessment

- 8.1** Compliance with this disability access policy must be continuously monitored. Monitoring the frequency and type of interactions with persons with disabilities and the assistance provided to them at the point of contact will help the Department improve and refine its ability to effectively serve this populations. Evaluation checklist and review tools must verify whether the person with disabilities is provided with the appropriate assistance to ensure equal opportunity to participate and equally effective communication for persons with disabilities when accessing the Department's programs and activities.



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- 8.2** To meet this requirement, paper or online case management records systems must capture requests for reasonable modifications and auxiliary aids and services at the point of contact. Casefiles must determine whether the customer was offered free assistance and record the type of service provided at the point of contact with each person with a disability. The case management system must ensure that once an individual is identified as needing a reasonable modification or auxiliary aid or service, the necessary assistance is provided for all subsequent interactions with the individual. The case management system must also capture interactions where a waiver of assistance is signed by a customer.
- 8.3** Customers must be informed of their right to file a complaint about the services provided at the point of contact. The TDH Discrimination Complaint Form or the appropriate federal agency compliant form can be used for this purpose. Notice of the complaint procedure should be prominently displayed in public areas. This notice must provide instruction to the public on how to file a complaint with the appropriate federal agency.
- 8.4** This disability access policy must be reassessed on an ongoing basis to ensure that it meet the current needs of the customer population. The policy must be revised to accommodate changes in the makeup of the customer population.

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