Legal Rights of Inmates with Disabilities

Disability Rights for Adult Inmates

If you are an adult inmate with a disability, you have rights in Minnesota. 3 main laws protect these rights. The laws are similar but apply to different types of correctional facilities. A correctional facility can be a jail, a prison, a detention center, or other location. For this fact sheet we use "prison" as a general term for all of those.

- Section 504 of the Rehabilitation Act of 1973 (Section 504)[1]
  If a federal, state, or local prison gets money from the federal government, the inmates are protected by Section 504.[2] It prevents discrimination based on disability. Section 504 makes sure inmates with disabilities are not left out of programs and activities because of their disability.

- Americans with Disabilities Act (ADA)[3]
  Title II of the Americans with Disabilities Act (ADA) applies to state and local prisons because they are public. These protections apply no matter where the money comes from.[4] Title II of the ADA makes sure that inmates with disabilities can take part in services, programs, and activities. It makes sure they are not being treated unfairly because of their disability.

- Minnesota Human Rights Act (MHRA)[5]
  The Minnesota Human Rights Act (MHRA) also applies to state and local prisons.[6] It says there has to be equal access to services, programs and activities for inmates with disabilities. But, if the prison can show that making changes in order to give equal access is an "undue hardship" on its operation, they don't have to make changes. An undue hardship or burden means that the change costs way too much or is too hard to do.

Equal Access

Inmates with disabilities have the same right to equal access as inmates without disabilities.[7] This can be things like:

- Access to and use of showers and toilets
- Changes to surroundings to protect from injury (like falls)
- Access to educational, training, and employment programs
- Access to medical supplies and devices like walking aids, braces, splints, and medical footwear

- Access to dining halls, visiting areas, recreation, and the library
- Access to information and materials in different formats. Like braille or American Sign Language. Or written announcements for inmates who are deaf or hard of hearing.

Am I protected by the ADA, MHRA and/or Section 504?

You are eligible for these protections if you have a physical or mental health condition that:

- is a "qualifying disability or condition"[8] and
- "substantially or materially limits one or more major life activities." This means the condition makes it much harder for you to do important everyday activities.

Qualifying disabilities or conditions could be things like:

- limited hearing or vision
- a mental health diagnosis
- mobility impairment
- chronic pain
- intellectual disabilities
- brain injury
- other conditions



For a more complete list see Chapter 10, Section 4.101 of the Code of Federal Regulations.

To decide if a physical or mental health condition "**substantially limits**" someone's major life activities it depends on how it impacts their life. Even if your physical or mental health need comes and goes, if it limits a major life activity when it is active, it is still considered a disability.[9] A physical or mental health need can be a disability, even if the impairment can be managed with things like medication, prosthetics, mobility devices, therapy, or other aids.[10]

"**Major life activities**" include common activities in daily life. These are things like caring for yourself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.[11]

What are Reasonable Accommodations

The ADA, MHRA and Section 504 say that prisons must provide "reasonable accommodations." These are changes that can be made so people with disabilities can take full and equal part in programs, services, or benefits.[12] A reasonable accommodation depends on the specific situation of the person asking.[13] The ADA does not require that the prison makes the exact change that the inmate asks for. It only requires that the change be reasonable and help solve the disability-related need.[14]

Common accommodations are things like:

- Access to educational programs. For example: giving you extra time to finish an assignment.
- Special diets for health conditions like diabetes or food allergies.
- Access to "equipment" like hearing aids, glasses, or mobility aids.
- Assistive technology or alternative formats of learning materials in educational or training programs.
- Changes in work duties if you can't do regular work tasks.
- Making changes to the emergency evacuation plans if you have mobility issues.
- Making changes for wheelchair accessibility. For example: providing space for the device to move around or changing how high a bed is so the wheelchair can pull up closer.
- Giving you a pager if you are deaf or hard of hearing that sends texts of announcements made over the prison loudspeakers.

How do I ask for a reasonable accommodation?

If you need reasonable accommodation for your disability and you are in prison at a State of Minnesota Correctional Facility, ask your Case Manager or Lieutenant for an ADA Modification Request form from the Minnesota Department of Corrections (DOC) Policy Number 203.250. Complete the form by describing:

- Your disability/health condition,
- How your disability/health condition limits your daily activities, and
- What changes you are asking for so you can take part in programs, services, or activities.

Send the completed form to your ADA Coordinator. If the ADA Coordinator wants to talk to you about it for any reason, they should do that within 5 working days after they get it. Then the ADA Coordinator must bring up your request with the prison ADA Committee at its next meeting. Once the ADA Committee makes a decision, they must give you a copy of the decision. They might also make referrals for disability-related diagnostic testing.

What if they say no?

The prison may deny an accommodation request if the specific thing asked for is not reasonable. Accommodations are considered not reasonable if they would cause an "undue burden" on the prison.[15] An undue burden means that the change costs way too much or is too hard to do.[16] Accommodations are also not required if they pose serious health or safety risks, or a "direct threat" to others.[17]

Sometimes they deny your specific request but decide on a different change that they think would work instead.

If the prison says no to your request, make sure to ask them for the denial in writing. You can submit a new reasonable accommodation request for a different accommodation. If your request is denied or if you don't agree with the different change the ADA Committee approved, you can appeal the decision. Ask your Case Manager or Lieutenant for an Appeal form. **You must submit your appeal within 60 days of when you get the ADA Committee's response.**

The appeal must be sent to the ADA Compliance Officer at the following address:

Minnesota Department of Corrections
Dept. of Corrections ADA Compliance Coordinator
1450 Energy Park Drive, Suite 200
St. Paul, MN 55108-5219

The ADA Compliance Officer must get back to you about your appeal within 15 working days of getting it.

KITEs and Grievances

If you are incarcerated in a Minnesota state facility and have a request or concern that is not a reasonable accommodation request, you should use the KITE process. The general process is the same for all facilities in MN. The Minnesota Department of Corrections KITE rules are in Policy No. 303.101. But each facility has its own chain of command. This means there are specific staff in different departments who deal with KITEs for that problem. For example, KITEs about problems with Living Units or problems with Health Services go to a different staff person.



If the KITE process does not fix the problem, you can use the DOC grievance process. The Minnesota Department of Corrections Grievance Procedures are in Policy No. 303.100.

For both KITEs and DOC Grievances, it's important to follow the correct steps. File a separate complaint for each problem. Make sure you know the deadlines and time limits. Give as much detail as possible, like names and dates. Following the correct steps can help you advocate for your rights and create a record of your concerns.[18]

Ombuds for Department of Corrections

The Ombuds is an independent office that helps protect the rights of inmates in Minnesota. It makes sure that complaints are taken seriously. The Ombuds' role is to:

- Look into complaints from inmates, staff and community.
- Look into problems that affect the whole system, not just individual cases.
- Work on solutions, suggest improvements, and share findings in reports.
- Provide education and information to help people navigate the corrections system.

If you followed all the steps for KITEs and grievances explained above but still didn't get the problem fixed, the Ombuds office might be able to help.

You can file a complaint with the Ombuds for Corrections if:

- the DOC grievance process has been completed OR
- It cannot be completed OR
- the prison does not follow the grievance process in the right way

You can file a complaint with the Ombuds by emailing or mailing the complaint form on their website or calling 651-539-4520 (press 1. Leave a message and a staff member will return your call during regular business hours to accept your complaint).

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.
Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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Laws, Statutes, Rules and Regulations

Disability Rights for Adult Inmates

1. The Rehabilitation Act of 1973, 29 U.S.C.A. § 794.
2. 29 U.S.C.A. § 794.
3. The Americans with Disabilities Act, 42 U.S.C.A. § 12131. See also 28 C.F.R. § 35.152. These talk about regulations specific to adult and juvenile jails, detention, and correctional facilities.
4. See Penn. Dep't of Corr. v. Yeskey, 524 U.S. 206 (1998). This says that the ADA applies to State and local prisons.
5. The Minnesota Human Rights Act, Minn. Stat. § 363A.12, subd. 1.
6. Minn. Stat. § 363A.03, subd. 35.

Equal Access

7. Minn. Stat. § 363A.03, subd. 35. 29 U.S.C.A. § 794; 28 C.F.R. § 35.152; s*ee Constantine v. Rectors and Visitors of George Mason Univ*., 411 F.3d 474, 499 (4th Cir. 2005). This says, "Under the disability discrimination statutes, a plaintiff must show that she was excluded from participation in, or denied the benefits of, a program or service offered by a public entity, or subjected to discrimination by that entity."

   This means that if a person wants to make a disability discrimination claim, they must show that a public agency left them out of a program or service, denied them benefits, or discriminated against them because of their disability.

Am I protected by the ADA, MHRA and/or Section 504?

These define what a disability is and list types of physical and mental impairments that count as a disability. Also, what things count as "major life activities" and what counts as "substantially limiting" your activities

8. 29 U.S.C.A. § 12102(4)(A); ADA Amendments Act of 2008, ADA AMENDMENTS ACT OF 2008 | U.S. Equal Employment Opportunity Commission.
9. See 42 U.S.C.A. § 12102(4).
10. See 42 U.S.C.A. § 1202(4)(E).
11. See 42 U.S.C.A. § 12102(2).

What are Reasonable Accommodations

12. ADA, 42 U.S.C.A. § 12132; Rehab Act, 29 U.S.C.A. § 794. Courts have interpreted these to mean that prisons must provide 'reasonable accommodation' to inmates with disabilities so they can take full and equal part in the prison's programs, services, and benefits.
13. See *Bahl v. County of Ramsey*, 698 F. 3d 778, 784-85 (8th Cir. 2012).
14. See *Chew v. Legis. of Idaho*, 512 F.Supp.3d 1124,1129 (D. Idaho 2021). This case says "The ADA does not require an accommodation that an individual requests or prefers; instead, the ADA requires only a reasonable accommodation."

What if they say no?

15. 28 C.F.R. §35.164. This says, "This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens."

    This means that if you ask for a change that causes an "undue burden" or requires a major change in the program, they don't have to make the change.

16. 28 C.F.R. § 35.130(b)(7)(i). This says, "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity."

    This means says prisons have to make reasonable change policies, practices, or procedures for inmates with disabilities.

17. 42 U.S.C.A. § 12182(b)(3); *School Bd. Of Nassau Cnty. v. Arline*, 480 U.S. 273, 287 (1987). The first talks about how if someone is a "direct threat" to the health and safety of others, they don't have to let that person take part in activities. The second is about an elementary school teacher had tuberculosis. The Court said the school had to consider the significant risk that the teacher would make her students sick when it was deciding if it could give her a reasonable accommodation.

KITEs and Grievances

18. The Prisoner Litigation Reform Act, 42 U.S.C.A. § 1997e(a). This says you must use your prison's grievance process and all administrative appeals before you can file a discrimination lawsuit.