

Youths with Disabilities

604.1 PURPOSE AND SCOPE

This policy provides guidelines for addressing the needs and rights of youths with disabilities detained by this department in accordance with the American with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (29 USC § 794).

604.1.1 DEFINITIONS

Definitions of Disability can be found at [Americans with Disabilities Act of 1990, As Amended | ADA.gov](#).

604.2 POLICY

It is the policy of the San Diego County Probation Department that youths with disabilities have equal access to services, programs, and activities by being provided with reasonable accommodations and appropriate auxiliary aids to assist with effective communications.

The San Diego County Probation Department will not discriminate against youths with disabilities or deny them access to services, rights, or programs based on their disabilities.

604.3 ADA COORDINATOR

In addition to the responsibilities identified in the Accessibility - ADA Compliance Policy, the responsibilities of the ADA coordinator include coordinating with the Division Chief and the Healthcare Administrator as appropriate to:

- (a) Make reasonable modifications to policies, practices, and procedures as necessary to allow youths with disabilities to participate in the Juvenile Detention Facility's educational, vocational, recreational, and religious programs, services, and activities.
- (b) Ensure the San Diego County Probation Department is designed or adapted to reasonably accommodate youths with disabilities, including but not limited to:
 1. Providing housing areas equipped to meet the physical needs of youths with disabilities, such as by having toilet and shower areas that allow for personal care and hygiene in a reasonably private setting (see the Individualized Treatment Plans Policy).
 2. Offering dining tables accessible to those in wheelchairs.
 3. Using a visual or other notification system so youths who have hearing disabilities do not miss announcements or alarms, including those for times for meals, recreation, and education.
- (c) Establish classification criteria to make appropriate housing assignments for youths with disabilities. For example, youths with mobility issues may require a lower bunk and accessible toilet and shower facilities.
 1. Youths should be asked if they have any accommodation requests during the initial classification process.

San Diego County Probation Department

Institutional Services Policy Manual

Youths with Disabilities

- (d) Establish procedures to determine at intake if auxiliary aids are necessary for effective communication, and to regularly consult with the youth and reassess whether alternative or additional aids or services are necessary for effective communication.
 - 1. The choice of the youth should be honored unless another effective means of communication exists (28 CFR 35.160).
 - 2. Notice of a youth's disability and preferred auxiliary aids should be provided to staff members who have contact with the youth so that effective communication may be achieved.
- (e) Assign individuals with adequate training to assist youths with disabilities with basic life functions, as needed.
- (f) Establish procedures for restraining, transporting, and moving youths with hearing or mobility disabilities, including procedures that permit effective communication, such as handcuffing in the front so the youth can sign or leaving one hand free so the youth can write, unless legitimate safety concerns dictate otherwise.
- (g) Establish guidelines and procedures that afford youths with disabilities equal opportunities to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment (28 CFR 115.316).
- (h) Enlist or contract trained service staff members who have experience working with people with disabilities.
- (i) Establish procedures for the request and review of accommodations.
- (j) Establish guidelines for accommodating individuals who are deaf or hard of hearing, have common disabilities such as sight or mobility impairments and developmental disabilities, or have common medical issues such as epilepsy.

604.4 COMMUNICATIONS

Staff members are responsible for taking reasonable steps to ensure their communications with youths with disabilities are as effective as communications with other youths. Staff members should consider all information reasonably available to them when determining how to communicate with a youth with a disability, including (28 CFR 35.160):

- (a) The youth's preferred method of communication.
- (b) The nature of the disability (e.g., deafness vs. hard of hearing, blindness vs. low vision).
- (c) The nature of the contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

San Diego County Probation Department

Institutional Services Policy Manual

Youths with Disabilities

Staff members should not always assume that effective communication is being achieved, and when there is any doubt, staff members should ask the youth to communicate back or otherwise demonstrate understanding.

604.4.1 INCIDENTS

In an effort to ensure that the rights of youths who are deaf or have a hearing or speech impairment are protected during any formal interview or interrogation that takes place in the juvenile detention facility, this department will provide interpreter services before beginning an interview or interrogation, unless exigent circumstances exist or the youth has made a clear indication that the youth understands the process and desires to proceed without an interpreter. A video remote interpreting service should be considered, where appropriate, if a live interpreter is not available.

If Miranda warnings are required under the circumstances, these should be provided to the youth through a qualified interpreter or by providing a written Miranda warning card.

To ensure that communications during criminal investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

604.4.2 INTERPRETERS

When an interpreter is necessary for effective communication (28 CFR 35.160):

- (a) A youth with a disability will not be required to provide an interpreter.
- (b) Except in an emergency involving an imminent threat to the safety or welfare of any person and when there is no interpreter reasonably available, staff members shall not use another youth as an interpreter.
- (c) Staff members should not rely on any adult other than a qualified interpreter unless the youth agrees and specifically requests assistance from the adult and reliance on that adult is appropriate under the circumstances.

604.4.3 STAFF MEMBER INTERPRETER LIMITATIONS

Except for staff members hired or contracted specifically to serve as qualified sign language interpreters, staff members should not serve as sign language interpreters except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no other interpreter reasonably available.

604.5 ACCOMMODATION REQUESTS

Staff members should assist a youth with a disability by accommodating the youth consistent with any guidelines related to the youth's disability (see the Individualized Treatment Plans Policy). If there are no current guidelines in place, staff members receiving a request for accommodation of a disability should direct the youth to provide the request in writing or assist the youth in doing so. The written request should be brought to the on-duty supervisor as soon as practicable, but during the staff member's current shift.

San Diego County Probation Department

Institutional Services Policy Manual

Youths with Disabilities

Generally, requests should be accommodated if the accommodation would not raise a safety concern or affect the orderly function of the juvenile detention facility. The formal written request should still be submitted to the on-duty supervisor.

Requests for accommodation should be reviewed by a supervisor as soon as practicable, but within 24 hours of the request being made. The reviewing supervisor should evaluate the request and, if approved, notify the Division Chief, ADA coordinator, and any other staff members as necessary to meet the accommodation. The supervisor should make a record of the accommodation in the youth's file.

A supervisor who does not grant the accommodation, either in part or in full, should forward the request to the Division Chief and the ADA coordinator within 48 hours of the request being made. The Division Chief, assisted by the ADA coordinator and/or legal counsel, should make a decision regarding the request within five days of the request being made.

604.6 DOCUMENTATION

Staff members should document all requests for accommodations or auxiliary aids and their action taken in response to each request, including denials.

If the youth's preference of auxiliary aid is not honored, the reason another method of communication was used should be included.

604.7 TRAINING

The ADA coordinator should work with the Training Manager to provide periodic training on such topics as:

- (a) Policies, procedures, forms, and available resources for youths with disabilities.
- (b) Working effectively with interpreters, telephone interpretive services, and related equipment.

Management staff members, even if they do not interact regularly with individuals with disabilities, should receive training as appropriate to understand and reinforce this policy.