

 <p style="text-align: center;">Massachusetts Department of Correction STANDARD OPERATING PROCEDURE</p>	Effective Date	Responsible Division Deputy Commissioner, Clinical Services and Reentry
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	Annual Review Date	
	11/27/2024	
Policy Name	M.G.L. Reference: M.G.L. c. 19C; M.G.L. c. 22, §13A; M.G.L. c. 124, §§1 (c) and (q); 42 U.S.C. §12101 et seq.; 28 C.F.R. §§ 35.130(h), 35.139(a)-(b), 35.150(a)(3)	
<p style="text-align: center;">STANDARD OPERATING PROCEDURE (SOP) TO 103 DOC 408, REASONABLE ACCOMMODATIONS</p>	DOC Policy Reference: 103 DOC 408; 103 CMR 482; 103 DOC 488	
	ACA/PREA Standards: Click here to enter text.	
	Applicability: Staff/Incarcerated Individuals/Civil Commitments	
Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Location: Department Central Policy File Superintendents/Division Heads Policy Files	
<p>PURPOSE: This standard operating procedure (SOP) to 103 DOC 408, <i>Reasonable Accommodations</i> is intended to address Department of Correction (Department) incarcerated individual and civil commitment requests and/or needs for Reasonable Accommodations for Deaf and Hard-of-Hearing incarcerated individuals and civil commitments which may fall under the Americans with Disabilities Act (ADA) or other provisions of local, state and federal law.</p> <p>RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY: Deputy Commissioner, Clinical Services and Reentry Assistant Deputy Commissioner, Clinical Services Department ADA Coordinator Superintendents</p> <p>CANCELLATION: 103 DOC 408 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules, or regulations which are inconsistent with this policy.</p> <p>SEVERABILITY CLAUSE: If any part of 103 DOC 408 is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.</p>		

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I. PURPOSE

The purpose of the Standard Operating Procedure (SOP) for Deaf and Hard-of-Hearing incarcerated individuals and civil commitments in the Department's custody is to provide clear guidelines, practices, rules, and expectations for all personnel, incarcerated individuals and civil commitments regarding policy 103 DOC 408, *Reasonable Accommodations*. This SOP defines the process for notification of Reasonable Accommodations; the assessment of Deaf and Hard-of-Hearing incarcerated individuals and civil commitments; the care, treatment, and accommodation of Deaf and Hard-of-Hearing incarcerated individuals and civil commitments ; the identification and tracking of Deaf and Hard-of-Hearing incarcerated individuals and civil commitments; the provision of Qualified Sign Language Interpreters; the provision of telecommunication devices; the provision of non-auditory visual and tactile notifications of emergency and non-emergency announcements to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments; and consideration of a Deaf or Hard-of-Hearing incarcerated individual's request at classification hearings to be housed at a Department institution that already houses another Deaf or Hard-of-Hearing incarcerated individual.

II. NOTIFYING INCARCERATED INDIVIDUALS AND CIVIL COMMITMENTS OF THE REASONABLE ACCOMMODATIONS PROCESS

- A. If, at any time during an individual's incarceration or commitment, the individual informs a Department staff member that they are having hearing difficulties or a Department staff member observes that an incarcerated individual or civil commitment may be having hearing difficulties, the staff member should notify the incarcerated individual or civil commitment that:
1. They may seek accommodations per the 103 DOC 408, *Reasonable Accommodations* policy; and
 2. They may also submit a sick call slip requesting to be seen by the Contract Medical Provider for an evaluation.
- B. If, at any time during an individual's incarceration or commitment, an Institution ADA Coordinator is informed by an incarcerated individual or civil commitment or a member of the Department's staff or observes that an incarcerated individual or civil commitment may be having hearing difficulties, the Institution ADA Coordinator shall notify the incarcerated individual or civil commitment that:
1. They may seek accommodations per the 103 DOC 408, *Reasonable Accommodations* policy; and
 2. They may also submit a sick call slip requesting to be seen by the Contract Medical Provider for an evaluation.

- C. The Department's Health Services Division shall ensure that its Contract Medical Provider conducts a hearing screening of any incarcerated individual or civil commitment not previously identified as Deaf or Hard-of-Hearing who:
1. Initiates a request for reasonable accommodation by reporting a hearing disability;
 2. Submits a sick call slip or makes a verbal report to medical staff concerning hearing issues; or
 3. Medical staff identifies as having potential hearing issues.

III. DISABILITY ACCOMMODATION RESOURCES ASSESSMENT

A. Introduction

The Department ADA Coordinator or the Institution ADA Coordinator shall initiate an assessment of incarcerated individuals and civil commitments who have been identified as Deaf or Hard-of-Hearing, utilizing the **Disability Accommodation Resources Assessment** form (Attachment #6 to 103 DOC 408, *Reasonable Accommodations* policy), no later than **five (5) days** after an incarcerated individual or civil commitment has been identified as Deaf or Hard-of-Hearing and shall complete the assessment within **thirty (30) days**, unless additional input about the nature of an incarcerated individual's or civil commitment's hearing needs has been sought but cannot be obtained within the thirty (30) days. The incarcerated individual or civil commitment shall not be required to complete the Request for Reasonable Accommodation form in connection with this initial assessment.

B. Meeting to Discuss Hearing-Related Accommodations

No more than **five (5) days** after an incarcerated individual or civil commitment has been identified as Deaf or Hard-of-Hearing, the Institution ADA Coordinator shall meet with that incarcerated individual or civil commitment. The meeting shall address, but need not be limited to:

1. The specific hearing-related accommodations available to the incarcerated individual or civil commitment; and
2. The incarcerated individual's or civil commitment's need for such hearing-related accommodation(s).
 - a. If the Deaf or Hard-of-Hearing incarcerated individual or civil commitment requires an Auxiliary Aid or Service to effectively participate in the meeting to discuss hearing-related accommodation, it shall be provided. This includes the presence of

a Qualified Sign Language Interpreter for Deaf or Hard-of-Hearing incarcerated individuals and civil commitments whose primary language is American Sign Language (ASL) in accordance with Section VII.

3. At this hearing-related accommodations meeting, the Institution ADA Coordinator and the Deaf or Hard-of-Hearing incarcerated individual or civil commitment shall discuss the incarcerated individual's or civil commitment's areas of hearing-related need (e.g., making phone calls, receiving instructions, participating in programming, etc.) and the incarcerated individual's or civil commitment's preferred method of communication and of receiving information (e.g., lip-reading, written language, ASL, etc.).
4. The Institution ADA Coordinator shall provide the Disability Accommodation Resources Assessment form, which includes the Index of Terms, directly to the Deaf or Hard-of-Hearing incarcerated individual or civil commitment with a list of hearing-related Auxiliary Aids and Services that have been approved for use in Department institutions in appropriate circumstances (e.g., interpreter services, CART, physical devices that have passed a security review). Where necessary, including when the Deaf or Hard-of-Hearing incarcerated individual or civil commitment is unfamiliar with any of the listed Auxiliary Aids or Services, the Institution ADA Coordinator shall explain the Auxiliary Aids and Services available to the Deaf or Hard-of-Hearing incarcerated individual or civil commitment, including what hearing-related need area they may help address and how. The Institution ADA Coordinator and the Deaf or Hard-of-Hearing incarcerated individual or civil commitment may also discuss any other topics that are relevant to the incarcerated individual's or civil commitment's hearing-related needs, including whether the incarcerated individual or civil commitment has previously used other Auxiliary Aids or Services, not included on the provided list of available accommodations. The Institution ADA Coordinator shall document the substance of their discussion, including the incarcerated individual's or civil commitment's preferred form of communication. The documentation of the discussion will be stored in the incarcerated individual's or civil commitment's ADA Record.
5. Based on the information provided, the Deaf or Hard-of-Hearing incarcerated individual or civil commitment shall indicate on the Disability Accommodation Resources Assessment form which Auxiliary Aids or Services they believe are necessary to enable them to effectively communicate and participate in Department programs, services, and activities. The Institution ADA Coordinator shall document which Auxiliary Aids and Services the incarcerated individual or civil

commitment has selected in the incarcerated individual's or civil commitment's ADA Record.

C. Institution ADA Coordinator Review of Deaf or Hard-of-Hearing Incarcerated Individual's or Civil Commitment's Requests for Auxiliary Aids and Services

1. The Institution ADA Coordinator shall review the Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's selection of Auxiliary Aids and Services on the Disability Accommodation Resources Assessment form and, **within thirty (30) days**, shall determine which accommodations shall be approved and provided to the Deaf or Hard-of-Hearing incarcerated individual or civil commitment unless additional input about the nature of an incarcerated individual's or civil commitment's hearing needs has been sought but cannot be obtained within the thirty (30) days. In making this decision, the Institution ADA Coordinator shall give primary consideration to the preference expressed by the incarcerated individual or civil commitment for particular Auxiliary Aids or Services. Primary consideration means the Department will honor a Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's expressed choice(s) of assistive devices or services when determining what types of Auxiliary Aids and/or Services are necessary to ensure that the incarcerated individual or civil commitment is able to communicate effectively and have effective, meaningful, and substantially equal access to Department programs, services, and activities, unless the Department can demonstrate that:
 - a. Another means of effective communication or access is available;
or
 - b. The means chosen by the incarcerated individual or civil commitment would result in a fundamental alteration in the service, program, or activity; in undue financial and administrative burdens; or will result in actual risks or impairment of the safe operation of a Department institution or the service, program, or activity.
2. Any decision to deny an Auxiliary Aid or Service selected by an incarcerated individual or civil commitment must be based on an individualized assessment of the incarcerated individual or civil commitment, and not on any set guidelines, protocols, or threshold levels of hearing loss shown on an incarcerated individual or civil commitment audiogram. Notwithstanding the foregoing, for Deaf or Hard-of-Hearing incarcerated individuals or civil commitments whose primary language is ASL, the Institution ADA Coordinator shall approve and provide as soon as is feasible: Qualified Sign Language Interpreter services, the telecommunication services of the incarcerated individual's or civil commitment's choosing, and any visual and/or tactile notification devices

without requiring the incarcerated individual or civil commitment to complete the Request for Reasonable Accommodation Form or follow the Reasonable Accommodation process..

3. The Institution ADA Coordinator shall document the approved Auxiliary Aids or Services in the incarcerated individual's or civil commitment's ADA Record and in IMS.
 - a. If the Institution ADA Coordinator denies or modifies any requested Auxiliary Aid or Service, they shall document the reasons for such denial or modification in the incarcerated individual's or civil commitment's ADA Record and provide documentation of the reasons for denial or modification to the incarcerated individual or civil commitment.
4. The Institution ADA Coordinator shall notify the Department ADA Coordinator of the following:
 - a. The incarcerated individual's or civil commitment's requested accommodations;
 - b. Whether such requested accommodations were granted, denied, or modified; and
 - c. Where a requested accommodation was denied or modified, the reasons therefor.
5. The Department ADA Coordinator shall document this information in the centralized database that they maintain.
6. The Institution ADA Coordinator shall render a decision regarding any requested Auxiliary Aids and Services on the Disability Accommodation Resources Assessment form and provide each incarcerated individual or civil commitment a copy of their completed Disability Accommodation Resources Assessment form. Additionally, the Institution ADA Coordinator will notify the incarcerated individual or civil commitment of the process to appeal any denial or modification of requested Auxiliary Aids or Services.

D. Appeal of Denial or Modification of Requested Auxiliary Aid or Service

A Deaf or Hard-of-Hearing incarcerated individual or civil commitment shall have the opportunity to appeal the denial or modification of a requested Auxiliary Aid or Service to the Department ADA Coordinator. Incarcerated individuals and civil commitments who verbally or in writing notify the Institution ADA Coordinator they are appealing their decision will have their appeal noted on the Disability Accommodation Resources Assessment form with the date the appeal was requested. The appealed Disability Accommodation Resources Assessment

form should be immediately forwarded by the Institution ADA Coordinator to the Department ADA Coordinator for review and response. The Department ADA Coordinator will review the appeal and consult with the Institution ADA Coordinator or any other appropriate Department, institution, or the contracted Medical/Mental Health staff to render a decision. The Department ADA Coordinator shall render a decision on the appeal within twenty (20) business days unless additional input about the nature of an incarcerated individual's or civil commitment's hearing needs has been sought but cannot be obtained within the twenty (20) business days. If an extension beyond the twenty (20) business days is required, the incarcerated individual or civil commitment shall be notified in writing. Depending on the needs of the Deaf or Hard-of-Hearing incarcerated individual or civil commitment, Auxiliary Aids and/or Services will be made available to allow the incarcerated individual or civil commitment effective access to the appellate process.

E. Supplemental Training from MCDHH and Request for Input

1. The Department shall coordinate with the Massachusetts Commission for the Deaf and Hard-of-Hearing (MCDHH) or other community resources to provide Institution ADA Coordinators with supplemental training regarding the Auxiliary Aids and Services available to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments. Additionally, the Department shall coordinate with MCDHH or other community resources to prepare approved language that Institution ADA Coordinators should use to explain the Auxiliary Aids and Services available to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments.
2. Institution ADA Coordinators who have not yet received the supplemental training may initiate the initial assessment within five (5) days after an incarcerated individual or civil commitment has been identified as Deaf or Hard-of-Hearing if they use this approved language. However, they may not complete the initial assessment or issue any decision denying the preferred Auxiliary Aids or Services sought by a Deaf or Hard-of-Hearing incarcerated individual or civil commitment unless they:
 - a. Receive input from MCDHH, or a qualified specialist recommended by MCDHH; or
 - b. Consult with an Institution ADA Coordinator, who has already received the supplemental training, or the Department ADA Coordinator.
3. An Institution ADA Coordinator who has received the supplemental training may solicit input and/or assistance from MCDHH, a qualified specialist recommended by MCDHH, the Department's Contract Medical Provider, or other community resources if they determine that such input or assistance would be helpful for determining which Auxiliary Aids or

Services would be appropriate for a particular Deaf or Hard-of-Hearing incarcerated individual or civil commitment. The Institution ADA Coordinator shall also request input or assistance from MCDHH, or a qualified specialist recommended by MCDHH, for profoundly or severely hearing-impaired incarcerated individuals and civil commitments, unless the incarcerated individual or civil commitment declines such input or assistance in writing. When an Institution ADA Coordinator requests and receives such input or assistance from MCDHH, documentation of the request(s) and response(s) from MCDHH, including any accommodations recommended by MCDHH, shall be included in the incarcerated individual's or civil commitment's ADA Record.

IV. MEETINGS WITH INSTITUTION ADA COORDINATORS REGARDING ACCOMMODATIONS FOR DEAF AND HARD-OF-HEARING INCARCERATED INDIVIDUALS AND CIVIL COMMITMENTS

- A. Meetings between the Institution ADA Coordinator and a Deaf or Hard-of-Hearing incarcerated individual or civil commitment whose primary language is ASL to discuss their request(s) for accommodations pursuant to 103 DOC 408, *Reasonable Accommodations*, sections 408.07(D) and 408.07(D)(3-5), **must be scheduled by the Institution ADA Coordinator in advance of the meeting**, unless qualified ASL interpreter services are available.
- B. The Institution ADA Coordinator shall keep a written record of all scheduled meetings. This record shall include information regarding:
 - 1. The date of the meeting;
 - 2. A summary of the discussion; and
 - 3. Any accommodation provided during the meeting, including the name of any interpreter utilized.
- C. Whenever pursuant to 103 DOC 408, *Reasonable Accommodations*, sections 408.07(D) and 408.07(D)(3-5), the Institution ADA Coordinator and a Deaf or Hard-of-Hearing incarcerated individual or civil commitment whose primary language **is not ASL** have a discussion about their request(s) for accommodations, the Institution ADA Coordinator shall keep a written record of that conversation. This record shall include information regarding:
 - 1. The date of the meeting;
 - 2. A summary of the discussion; and
 - 3. Any accommodations provided during the meeting, including the name of any interpreter or CART provider utilized.

V. DOCUMENTATION REGARDING REASONABLE ACCOMMODATIONS FOR DEAF AND HARD-OF-HEARING INCARCERATED INDIVIDUALS AND CIVIL COMMITMENTS

- A. The Department ADA Coordinator shall maintain a centralized database that contains:
1. Information regarding all requests for Reasonable Accommodation, and
 2. A list of which incarcerated individuals and civil commitments at the institution who have been identified as Deaf or Hard-of-Hearing and the status of any related requests for Reasonable Accommodations. This information shall be updated at least monthly.
- B. The Institution ADA Coordinators shall submit a **monthly report** to the Superintendent and the Department ADA Coordinator that contains information regarding:
1. All Requests for Reasonable Accommodation made by Deaf and Hard-of-Hearing incarcerated individuals and civil commitments, including the accommodations requested, whether the requests were granted, modified, or denied, and the reasons for any modification or denial; and
 2. Any accommodation approved for Deaf and Hard-of-Hearing incarcerated individuals and civil commitments without submission of a Request for Reasonable Accommodation.

VI. TRACKING DEAF AND HARD-OF-HEARING INCARCERATED INDIVIDUALS AND CIVIL COMMITMENTS IN DEPARTMENT CUSTODY

The Department shall employ the following procedures to track incarcerated individuals and civil commitments in Department custody who have been identified as Deaf and Hard-of-Hearing, as well as what Reasonable Accommodation(s) have been requested, approved, denied, and/or modified:

- A. IMS will reflect whether an incarcerated individual or civil commitment is Deaf and Hard-of-Hearing; the hearing-related medical restrictions and hearing-related accommodations for which an incarcerated individual or civil commitment has been approved; and whether the incarcerated individual's or civil commitment's preferred language is ASL and/or needs a Qualified Sign Language Interpreter.
- B. If an incarcerated individual or civil commitment has been identified as Deaf or Hard-of-Hearing in the Medical Restrictions Screen in IMS, a red dot shall be placed on the lower right corner of the incarcerated individuals or civil commitments bed book card for use by the housing unit officer. This

distinguishing mark shall follow Deaf and Hard-of-Hearing incarcerated individuals and civil commitments to all Department institution placements.

- C. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments shall be offered an accessibility symbol for hearing loss and/or an accessibility symbol indicating the need for Sign Language Interpretation. These symbols will be placed on an incarcerated individual's or civil commitment's identification card indicating the nature of their hearing disability that they are able to carry on their person and present to staff and/or other incarcerated individuals or civil commitments as necessary. Incarcerated individuals and civil commitments may decline to accept such accessibility symbols for their identification card.
- D. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments shall be offered an accessibility identification sign for hearing loss and/or an accessibility sign indicating the need for Sign Language Interpretation. These accessibility identification signs will indicate the nature of their hearing disability that will be placed on their cell door or in close proximity to their bed area. Incarcerated individuals and civil commitments may decline to accept such accessibility identification signs.
- E. Transfer/Movement of Deaf and Hard-of-Hearing Incarcerated Individuals and Civil Commitments

Each Institution ADA Coordinator shall document a Deaf and Hard-of-Hearing incarcerated individual's and civil commitment's approved Reasonable Accommodation(s) in a manner that will ensure that the information will follow these individuals if they transfer or are moved to another Department institution. Prior to the transfer or move, or as soon as possible thereafter, the Institution ADA Coordinator from a transferring institution shall contact the Institution ADA Coordinator at the receiving institution to inform the latter that a Deaf and Hard-of-Hearing incarcerated individual and civil commitment, who has been granted a Reasonable Accommodation(s), will be arriving or has recently arrived at their institution. Record of this contact between Institution ADA Coordinators shall be maintained in the Deaf and Hard-of-Hearing incarcerated individual's and civil commitment's ADA Record at the receiving institution. The Institution ADA Coordinator from the transferring institution shall ensure that the Deaf and Hard-of-Hearing incarcerated individual's and civil commitment ADA Record of written documents is forwarded to the Institution ADA Coordinator at the receiving institution as soon as possible.

VII. QUALIFIED SIGN LANGUAGE INTERPRETERS

- A. The Department will provide Qualified Sign Language Interpreters consistent with the procedures set forth in 103 DOC 408, *Reasonable Accommodations* policy and as required by relevant law, including the ADA. This shall be an in-person interpreter, when possible, or a Video Remote Interpreting (VRI) service if

an in-person interpreter cannot be obtained within a reasonable time frame. Each institution shall have a VRI accessible computer in relevant areas in accordance with the listing below:

1. Incarcerated Individual or Civil Commitment orientation;
2. Classification hearings;
3. Sex offender treatment programming;
4. Medical appointments, evaluations, mental health services, and the required mental health rounds for incarcerated individuals and civil commitments in Behavior Assessment Units (BAU) and Secure Adjustment Units (SAU), (but excluding routine medical events like daily insulin shots or trips through the medication line) that occur within Department institutions (to be provided by the Department's medical provider);
5. Inner Perimeter Security or other Department investigations and related questioning (e.g., investigations into Prison Rape Elimination Act (PREA) allegations);
6. Disciplinary proceedings and Observation of Behavior Report proceedings; BAU/SAU proceedings at which the incarcerated individual or civil commitment has the opportunity to appear in person;
7. Grievance interviews; scheduled meetings with the Institution ADA Coordinator, Department ADA Coordinator, or Contract Medical Provider concerning requests for accommodations;
8. Educational and vocational classes in which the incarcerated individual or civil commitment is enrolled;
9. All programs included on the incarcerated individual's or civil commitment's Personalized Program Plan in the Need Areas of Substance Abuse, Criminal Thinking, Anger, Cognitive/Behavioral, Academic Education/Vocational, and Sex Offender Treatment (to be provided by the Department's Sex Offender Treatment Provider);
10. Any other program in which the individual is enrolled for which "earned time" may be awarded leading to a possible reduction in sentence, or where a liberty interest may be implicated;
11. Programs and meetings concerning reentry and discharge planning;
12. Religious services; and

13. Any specific pre-release Department program recommended by the Parole Board.
- B. When it has been determined that a Deaf or Hard-of-Hearing incarcerated individual or civil commitment needs an ASL interpreter to have communications that are substantially as effective as communications by hearing incarcerated individuals and civil commitments, the Department shall ensure that Qualified Sign Language Interpreter services are available at the programs, appointments and/or major events, listed above, without requiring the incarcerated individual or civil commitment to submit a request for accommodation pursuant to 103 DOC 408, *Reasonable Accommodations*.
 - C. As defined in 103 DOC 408, *Reasonable Accommodations*, a Qualified Sign Language Interpreter is a “sign language interpreter certified by the National Registry of Interpreters for the Deaf or approved by the Massachusetts Commission for the Deaf and Hard-of-Hearing who can interpret effectively, accurately, and impartially, both receptively and expressively, using American Sign Language.” American Sign Language (ASL) is the most encountered form of sign language in the United States. The Department is required to provide Reasonable Accommodations to incarcerated individuals and civil commitments who speak a sign language other than ASL. If the Institution ADA Coordinator requires assistance or guidance in accommodating a non-ASL sign language speaker, they should contact the Department ADA Coordinator.
 - D. For religious services, programs in the Personalized Program Plan Need Area of Low-Risk Alternative that the incarcerated individual or civil commitment has accepted, and other programs that an incarcerated individual or civil commitment has signed up to attend (as opposed to being enrolled by the Department programming staff), the Department may engage in preliminary discussion(s) with the Deaf or Hard-of-Hearing incarcerated individual or civil commitment to establish whether and how frequently the incarcerated individual or civil commitment intends to participate. The Department shall provide a Qualified Sign Language Interpreter to facilitate these preliminary discussions.
 1. Once it has been determined both that the incarcerated individual or civil commitment will attend and how frequently, the Department shall provide the Deaf or Hard-of-Hearing incarcerated individual or civil commitment with Qualified Sign Language Interpreter services, which may include VRI, in accordance with that schedule without requiring that the incarcerated individual or civil commitment submit any subsequent requests for Reasonable Accommodation.
 2. The incarcerated individual or civil commitment should notify the Department if their anticipated schedule changes, requiring more or less frequent assistance from Qualified Sign Language Interpreters.

3. With respect to the programs discussed in this paragraph, in the event that the incarcerated individual's or civil commitment's voluntary attendance, the incarcerated individual's or civil commitment's preference for an interpreter as opposed to another (or no) Auxiliary Aid, or the nature of the program changes, the Department may engage in another discussion with the Deaf or Hard-of-Hearing incarcerated individual or civil commitment to reassess the provision of Qualified Sign Language Interpreters.
- E. The Department shall also provide Qualified Sign Language Interpreter services in other situations as circumstances may warrant. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments may request Qualified Sign Language Interpretation for any Department program, service, activity, appointment, or major event by initiating a Request for Reasonable Accommodation pursuant to the 103 DOC 408, *Reasonable Accommodations*. All such incarcerated individual and civil commitment requests for Qualified Sign Language Interpretation shall be considered and processed in accordance with the 103 DOC 408, *Reasonable Accommodations*.
 - F. When circumstances prevent the Department from providing necessary interpreter services for the programs, appointments, and/or major events listed above, the Department must document in writing the reason(s) that such services could not be provided and must take any other action to nevertheless ensure that, to the maximum extent possible, the Deaf or Hard-of-Hearing incarcerated individuals or civil commitments receives substantially equal access to the benefits or services provided by the Department.
 - G. The Department shall provide Deaf and Hard-of-Hearing incarcerated individuals and civil commitments with the opportunity to participate in the programs, appointments, and/or major events listed above, consistent with the opportunities for participation afforded to similarly situated hearing incarcerated individuals and civil commitments. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments shall not remain on waiting lists for the above programs, appointments, and/or major events for longer than hearing incarcerated individuals and civil commitments, due to the fact of their disability.
 - H. For programs and services that do not fall within the programs, appointments, and/or major events listed above, and for which the Department permits volunteers to provide or facilitate, the Department will notify the volunteer organization or facilitator, if it is aware, that the program and service will be attended by one (1) or more Deaf or Hard-of-Hearing incarcerated individuals or civil commitments whose primary language is ASL and encourage the volunteer organization or facilitator to arrange for Qualified Sign Language Interpretation and make any other accommodations to facilitate the incarcerated individual's or

civil commitment's Deaf or Hard-of-Hearing effective participation and communication.

- I. Whether a Qualified Sign Language Interpreter or other particular Auxiliary Aid or Service is needed is based not only on the particular incarcerated individual's or civil commitment's method of communication, but also on the nature, length, context, and complexity of the communication. In determining what form of Auxiliary Aid or Service is necessary, the Department shall give primary consideration to the request of the Deaf or Hard-of-Hearing incarcerated individual or civil commitment. The Department shall not be required to provide a Qualified Sign Language Interpreter at any particular program, appointment, and/or event if:
1. The incarcerated individual or civil commitment knowingly and voluntarily waives in writing their right to a Qualified Sign Language Interpreter;
 2. The Department can demonstrate that another substantially equal and effective means of communication is available; or
 3. Provision of a Qualified Sign Language Interpreter would result in a fundamental alteration in the service, program, or activity; in undue financial and administrative burdens; or will result in actual risks or impairment of the safe operation of a Department institution or the service, program, or activity.

To the extent that provision of a Qualified Sign Language Interpreter would not be required for reason number (3) above, the Department must provide a written statement of the reasons for reaching that conclusion and must take any other action to nevertheless ensure that, to the maximum extent possible, the Deaf or Hard-of-Hearing incarcerated individual or civil commitment receives the benefits or services provided by the Department.

J. Statements Made Without a Qualified Sign Language Interpreter

The Department shall not rely on any statements, including written statements, made or obtained without a qualified ASL interpreter from a Deaf or Hard-of-Hearing incarcerated individual or civil commitment whose primary language is ASL during an Inner Perimeter Security Investigation (IPS), other Department Investigations, or informal investigative interviews conducted by IPS, a Superintendent's Special Investigator (SSI), or the Professional Standards Unit (PSU) for purposes of disciplining said incarcerated individual or civil commitment. Nothing in this paragraph shall be interpreted to prevent the Department from responding as it deems appropriate in an emergency or rapidly developing situation, including when the Department must act quickly to prevent harm to the Deaf or Hard-of-Hearing incarcerated individual or civil commitment, another incarcerated individual or civil commitment, staff, or the public.

K. The Department may rely on voluntary, unsolicited oral or written statements made by an incarcerated individual or civil commitment for the following purposes:

1. To discipline the incarcerated individual or civil commitment where the making of the statement itself is the violation; or
2. To initiate an investigation into a possible disciplinary infraction by the incarcerated individual or civil commitment.

L. Interpretation of Written Materials

1. Where an incarcerated individual or civil commitment indicates that they so require, the Department shall provide Qualified Sign Language Interpreter services to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments whose primary language is ASL and who are unable to effectively understand written English or Spanish to permit those incarcerated individuals and civil commitments to understand the content of written materials that the Department provides to all Deaf or Hard-of-Hearing incarcerated individuals and civil commitments, written communications from the Department to the Deaf or Hard-of-Hearing incarcerated individual or civil commitment, and any forms that the incarcerated individual or civil commitment may need to complete.
2. If a Deaf or Hard-of-Hearing incarcerated individual or civil commitment whose primary language is ASL participates in any program or class, except one (1) that is run by an outside academic institution, that has a written requirement that is to be completed outside of program or class time (e.g., homework), the Department will provide the Deaf or Hard-of-Hearing incarcerated individual or civil commitment with a reasonable accommodation for that written requirement. The reasonable accommodation may include providing a Qualified Sign Language Interpreter to permit the Deaf or Hard-of-Hearing incarcerated individual or civil commitment to effectively complete the written requirement or making an adjustment to the written requirement (e.g., allowing the work to be done in class or not in writing).
 - a. However, Qualified Sign Language Interpretation shall not be provided to Deaf and Hard-of-Hearing incarcerated individuals or civil commitments for use during the Test of Adult Basic Education (TABE) reading and language components so that the resulting scores provide an accurate reflection of the incarcerated individual's or civil commitment's English language abilities.

M. Methods for Providing Interpreter Services

1. Contract Medical Provider

The Contract Medical Provider for the Department shall provide access to on-demand video remote interpreting (VRI) at on-site medical appointments (but excluding routine medical events like daily insulin shots or trips through the medication line), unless VRI is not appropriate based on the circumstances or the needs of the Deaf or Hard-of-Hearing incarcerated individual or civil commitment. The provision of VRI for any on-site medical appointment shall meet the requirements set forth in 28 C.F.R. § 35.160(d)(1)-(4).

The Contract Medical Provider for the Department will provide VRI for use in unscheduled on-site medical emergencies where the exigencies of the situation permit. Life-saving medical care or emergent or urgent clinical interventions necessary to treat a potentially progressive acute condition will never be delayed because no interpretation services are available.

If remote interpreting services are unavailable or not appropriate in the situation, the Contract Medical Provider for the Department will secure an in-person Qualified Sign Language Interpreter as soon as possible. The Contract Medical Provider may arrange for the provision of in-person interpreters at on-site medical appointments through the MCDHH, pursuant to the Massachusetts state contract for interpreter services that MCDHH manages, or through other available community resources (e.g., Partners Interpreting).

2. The Department

The Department shall arrange for Qualified Sign Language Interpreter services and CART services for Deaf and Hard-of-Hearing incarcerated individuals and civil commitments either through its contract ASL interpreters or through MCDHH. Unforeseen circumstances outside of the Department's control may occasionally prevent it from providing necessary interpreter services or Auxiliary Aids (e.g., institution emergencies, institution lockdowns, severe weather). These circumstances should be documented and placed in the incarcerated individual's or civil commitment's ADA Record, and the necessary services and Auxiliary Aids should be provided to the incarcerated individual or civil commitment as reasonably as possible.

3. Choice Between On-Site Interpreter Services and VRI

The Department shall retain discretion to decide whether to provide Qualified Sign Language Interpreter services through on-site interpreters or through VRI, except when VRI is not appropriate based on the Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's needs or abilities.

N. Off-Site Medical Care

The Department is not required to provide Qualified Sign Language Interpreter services or other communication access accommodations to Deaf or Hard-of-Hearing incarcerated individuals or civil commitments when those Deaf or Hard-of-Hearing incarcerated individuals or civil commitments receive medical care outside of a Department institution. The Department's Contract Medical Provider shall inform all off-site medical providers of that Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's need for an interpreter or other Auxiliary Aid as soon as possible.

O. Parole Hearings

The Department is not required to provide Qualified Sign Language Interpreter services or other communication access accommodation to Deaf or Hard-of-Hearing incarcerated individuals at parole hearings provided by the Massachusetts Parole Board. The Department shall inform the Massachusetts Parole Board of any Deaf or Hard-of-Hearing incarcerated individual that needs an interpreter or other Auxiliary Aid as soon as possible.

P. Use of Incarcerated Individuals and Civil Commitments as Interpreters for Deaf or Hard-of-Hearing Incarcerated Individuals and Civil Commitments

1. The Department shall not require Deaf and Hard-of-Hearing incarcerated individuals or civil commitments to provide incarcerated individuals or civil commitments to interpret for them.
2. Incarcerated individuals and civil commitments shall not be used as interpreters for Deaf or Hard-of-Hearing incarcerated individuals or civil commitments in any of the areas listed in 103 DOC 488, *Telephonic Interpreter Service*, section 488.03(1) except in an emergency situation in which institution security or the health or safety of an individual, including the Deaf or Hard-of-Hearing incarcerated individual or civil commitment, is in jeopardy. If an incarcerated individual or civil commitment interprets for a Deaf or Hard-of-Hearing incarcerated individual or civil commitment in such emergency circumstances, the Department shall make available, within a reasonable period of time, a Qualified Sign Language Interpreter

to review with the Deaf or Hard-of-Hearing incarcerated individual or civil commitment the discussion conducted with the incarcerated individual or civil commitment interpreter. If an incarcerated individual or civil commitment is used as an interpreter in an emergency situation, as described above, a written record shall be made of:

- a. The name of the Deaf or Hard-of-Hearing incarcerated individual or civil commitment;
 - b. The name of the incarcerated individual or civil commitment interpreting;
 - c. The name(s) of the Department or vendor staff whose communication required interpretation;
 - d. The date on which the interpretation occurred; and
 - e. The reason(s) that an incarcerated individual or civil commitment interpreter was used.
3. If incarcerated individual or civil commitment interpretation is provided during a medical or mental health appointment or evaluation on an emergency basis, said written record shall be included in the Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's medical records.
 4. If an incarcerated individual or civil commitment is used as an interpreter during an Inner Perimeter Security or other Department Investigation or for questioning related to such an investigation, all official notes concerning those communications shall be preserved.
 5. A Deaf or Hard-of-Hearing incarcerated individual or civil commitment shall never be asked or required to sign a waiver or release of their confidential CORI or medical information to an incarcerated individual or civil commitment serving as an interpreter.
 6. If another incarcerated individual or civil commitment interprets for a Deaf or Hard-of-Hearing incarcerated individual or civil commitment on an informal basis, neither the Deaf or Hard-of-Hearing incarcerated individual or civil commitment nor the assisting incarcerated individual or civil commitment shall be subjected to disciplinary consequences solely because the assisting incarcerated individual or civil commitment provided interpretation.
 7. A Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's informal use of an incarcerated individual or civil commitment interpreter in a particular circumstance or use of an incarcerated individual or civil commitment interpreter in an emergency situation, as referenced above, shall not constitute or be construed as a general waiver of the Deaf or Hard-of-Hearing incarcerated individual's or

civil commitment's request for a Qualified Sign Language Interpreter or as a general waiver of the Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's confidentiality rights.

8. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who request the assistance of another incarcerated individual or civil commitment to communicate during events and staff interactions for which the Department does not provide Qualified Sign Language Interpreters may, in the Department's discretion, be assigned incarcerated individual or civil commitment companions.

VIII. TELECOMMUNICATION

A. General Policy

The Department shall provide Deaf and Hard-of-Hearing incarcerated individuals and civil commitments in its custody with access to telecommunication services and devices that enable Effective Communication with people outside of Department institutions. Effective Communication is communication that is as clear and understandable to persons with disabilities as it is for persons who do not have disabilities. Effective Communication affords incarcerated individuals and civil commitments with disabilities an opportunity to participate in communications with people outside of Department institutions in a manner that is substantially equal to the opportunity provided to similarly situated incarcerated individuals and civil commitments who do not have disabilities. A list and description of all telecommunication services and devices available at each institution will be provided to each incarcerated individual or civil commitment during orientation at that institution and in the institution's incarcerated individual and civil commitment manual.

B. Telecommunication Services and Devices to be Provided

Telecommunications services and devices for approved incarcerated individuals and civil commitments include the following:

1. Videophones & Video Relay Services (VRS)

Videophone technology is available at each institution to incarcerated individuals and civil commitments who have been identified as Deaf or Hard-of-Hearing and whose primary language is sign language. The purpose of the videophones is to enable approved incarcerated individuals and civil commitments who communicate using sign language to effectively communicate with sign language speakers outside of Department institutions through point-to-point video communication and to effectively communicate with hearing individuals outside of Department institutions using VRS.

a. Stationary Videophones Available at Each Institution

At least one (1) stationary videophone shall be available at each institution. The stationary videophone shall be available during the same hours, including nights and weekends, that hearing incarcerated individuals and civil commitments have access to traditional phones, consistent with 103 CMR 482, *Telephone Access and Use*. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who have been approved to use the stationary videophone must request access to the stationary videophone each time they wish to use it by communicating to their unit correction officers either in writing, if they are able, or by using the ASL sign for "phone." Department personnel shall clearly communicate to each Deaf and Hard-of-Hearing incarcerated individual and civil commitment that the ASL sign for "phone" may be used to request access to the stationary videophone. Unit correctional officers will be trained to understand that an incarcerated individual or civil commitment signing in ASL "phone" is requesting access to the videophone.

b. Mobile Videophones Available in Housing Units

At least one (1) mobile videophone shall be available in each housing unit in which an approved Deaf or Hard-of-Hearing incarcerated individual or civil commitment is housed in a manner that is consistent with 103 CMR 482, *Telephone Access and Use*. Such mobile videophone technology will be generally available for use during the same hours, including nights and weekends, that hearing incarcerated individuals and civil commitments have access to traditional telephones.

Once a Deaf or Hard-of-Hearing incarcerated individual or civil commitment has been approved to use the videophone phone, the approved Deaf or Hard-of-Hearing incarcerated individual or civil commitment shall not be required to request access to the mobile videophone in their housing unit each time they wish to use it. Instead, an approved incarcerated individual's or civil commitment's authorization to use the videophones shall be associated with that incarcerated individual's or civil commitment's PIN number, as defined in 103 CMR 482, *Telephone Access and Use*, section 482.05. When, consistent with the Department's regulations, telephones are not available for general incarcerated individual or civil commitment use, the mobile housing unit videophone shall be stored in a location, to be determined by each individual Department institution.

The Department will ensure that there are staff members on each shift in each housing unit in which an incarcerated individual or civil commitment approved to use videophones is housed who know where the mobile videophone is stored and are responsible for making it available in the housing unit for use in accordance with the foregoing. The presence of a mobile videophone on a Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's unit shall not prevent that incarcerated individual or civil commitment from accessing other types of telecommunication service(s) and device(s) that the incarcerated individual or civil commitment is approved to use.

In addition, in the event that a mobile videophone is not fully functional, Deaf and Hard-of-Hearing incarcerated individuals and civil commitments approved for videophone use, shall be able to request and access the stationary videophone installed at the incarcerated individual's or civil commitment's institution.

2. Captioned Telephones (CapTel)

At least one (1) CapTel device is available at each Department institution. The Department will provide additional CapTel devices in an institution, when possible, based on the location of analog telephone lines and the availability of a suitable space for use thereof, as determined by the Department taking into consideration such factors as use of the space by correctional staff, operational needs, security concerns, technical needs and concerns, and the safe use and storage of the device.

The portable CapTel device will be stored in a designated location at each institution, to be determined by each institution. The CapTel device shall be available during the same hours, including nights and weekends, that hearing incarcerated individuals and civil commitments have access to traditional phones, consistent with 103 CMR 482, *Telephone Access and Use*. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who have been approved to use the CapTel device must request access to the CapTel device each time they wish to use it.

3. Teletypewriters (TTY)

At least one (1) TTY device is available at each Department institution. The portable TTY device will be stored in a designated location at each institution, to be determined by each institution. The TTY device shall be available during the same hours, including nights and weekends, that hearing incarcerated individuals and civil commitments have access to traditional phones, consistent with 103 CMR 482, *Telephone Access and*

Use. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who have been approved to use the TTY device must request access to the TTY device each time they wish to use it.

C. Access to Stationary Videophones, CapTel, and TTY

1. An approved incarcerated individual or civil commitment who requests access to a stationary videophone, CapTel, or TTY, shall be provided with such access as soon as possible and without delay, with the expectation that access will be provided within forty-five (45) minutes and the occasions in which access is not provided within two (2) hours shall be the rare exception. In no event shall an approved Deaf and Hard-of-Hearing incarcerated individual or civil commitment have to wait longer than two-and-a-half (2.5) hours, unless access must be prevented or delayed as permitted by 103 CMR 482, *Telephone Access and Use*.
 - a. If an incarcerated individual's or civil commitment's access is prevented or delayed, the Department must notify the requesting incarcerated individual or civil commitment and provide access as soon as is feasible. The requirements of 103 CMR 482, *Telephone Access and Use*, section 482.07(1) shall apply to access to stationary videophones, CapTels, and TTYs.
2. The Department will ensure that there are staff members on each shift at each Department institution who know where the stationary videophone, CapTels, and TTYs are located and the process by which Deaf and Hard-of-Hearing incarcerated individuals and civil commitments approved to use them may access them. The Department shall ensure that the location designated for these devices' use at each institution does not result in such frequent or repeated interruptions or interference to approved incarcerated individuals and civil commitments access and use that Deaf and Hard-of-Hearing incarcerated individuals and civil commitments are deprived of effective Communication with persons outside of Department institutions that is substantially equal to the access to telecommunication services and devices that the Department provides to incarcerated individuals and civil commitments without a hearing disability.

D. Telephones with Amplified Volume Control

The Department will ensure that all traditional telephones provided for incarcerated individual and civil commitment use include a built-in user-controlled volume button that permits telephone users to amplify call volume.

E. Hearing Aid Compatible Traditional Telephones

The Department will ensure that all traditional telephones provided for incarcerated individual and civil commitment use include Handsets that are hearing aid compatible in accordance with Federal Communications Commission guidelines.

F. Requesting Approval for and Access to Telecommunication Services and Devices

1. The Department will provide access to videophone, TTY, and/or CapTel services and devices to those Deaf or Hard-of-Hearing incarcerated individuals and civil commitments who have requested access thereto and whose requests have been approved, or to Deaf or Hard-of-Hearing incarcerated individuals and civil commitments who have been otherwise approved, in accordance with the procedures set forth in 103 DOC 408, *Reasonable Accommodations*.
2. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments may be approved for and receive regular access to more than one (1) of the above telecommunication service(s) or device(s). The Department shall maintain a record of a Deaf or Hard-of-Hearing incarcerated individual's or civil commitment's approval to access certain telecommunication service(s) or device(s) in IMS as an open-ended medical restriction, subject to periodic reviews for appropriateness.
 - a. In the event of a transfer or move, approvals for telecommunication service(s) and device(s) shall follow Deaf and Hard-of-Hearing incarcerated individuals and civil commitments from institution to institution.
3. Deaf and Hard-of-Hearing hearing incarcerated individuals and civil commitments who have been approved to access videophone, TTY, and/or CapTel services and devices shall not be required to submit a new Request for Reasonable Accommodation each time they wish to access the approved telecommunication service(s) and device(s). Once approved, Deaf and Hard-of-Hearing incarcerated individuals and civil commitments shall only require permission to use videophones on a particular occasion in the same limited circumstances in which other incarcerated individuals and civil commitments require permission to use traditional telephones.
 - a. For TTY and/or CapTel devices, once approved, Deaf or Hard-of-Hearing incarcerated individuals and civil commitments need only to informally notify Department staff that they wish to access the device in question, and Department staff shall permit and facilitate timely access thereafter, in keeping with the provisions above.
4. Incarcerated individuals and civil commitments who have been identified as Deaf or Hard-of-Hearing, either through self-identification or

identification by the Department or its Contract Medical Provider, shall be notified during booking and admission and at orientation of all telecommunication services and devices available at Department institutions, so that they are aware of what technologies exist and may submit a Request for Reasonable Accommodation for approval to access the appropriate service(s) or device(s). A written description of all available telecommunication services and devices shall also be included in each institution's incarcerated individual and civil commitment Orientation Manual.

5. If an incarcerated individual or civil commitment is later identified as Deaf or Hard-of-Hearing while in Department custody, either through self-identification or identification by the Department or its Contract Medical Provider, the Institution ADA Coordinator or designee at the institution in which such incarcerated individual or civil commitment is housed shall notify the incarcerated individual or civil commitment of the telecommunication services and devices available so that the incarcerated individual or civil commitment may submit a Request for Reasonable Accommodation for approval to access the appropriate services and devices.

G. Monitoring Communications

All calls placed by incarcerated individuals and civil commitments, including but not limited to those placed by Deaf and Hard-of-Hearing incarcerated individuals and civil commitments through videophones, CapTel devices, and TTY machines, will be subject to monitoring, recording, and storage, consistent with 103 CMR 482, *Telephone Access and Use*.

H. Additional Time for Communication

Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who have been approved to use videophones, TTY, and/or CapTel devices shall be provided **twice the amount of time** to complete calls using such devices as is afforded to incarcerated individuals and civil commitments who complete telephone calls using traditional telephones, subject to operational or security concerns or administrative constraints (*e.g.*, institution emergencies).

I. Responsibility for Maintaining Equipment

The Department, through its Telecommunication Vendor, will ensure that the telecommunication services and devices used to permit communication between Deaf and Hard-of-Hearing incarcerated individuals and civil commitments and people outside of Department institutions are in good working order. The Department will attempt to resolve complaints about any malfunctioning equipment within one (1) week of receiving that complaint. To the extent

services, equipment, and resources that are outside of the Department's control are involved, the Department will notify the relevant providers or companies of any equipment problems within one (1) week and, to the extent necessary or possible under the circumstances, work with these third parties to expeditiously resolve the problem(s).

All calls placed by incarcerated individuals and civil commitments, including but not limited to those placed by Deaf and Hard-of-Hearing incarcerated individuals and civil commitments through videophones, CapTel devices, and TTY machines, will be subject to monitoring, recording, and storage, consistent with 103 CMR 482, *Telephone Access and Use*.

J. Cost for Use of Telecommunication Services and Devices

Videophone, TTY, and CapTel services and devices are available at no cost to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who have been approved to use such services and devices (except for international calls).

IX. VISUAL AND TACTILE NOTIFICATIONS

A. General Policy

The Department shall provide Effective Communication for all individuals with regard to announcements, alarms, emergency notifications, and other auditory information from Department staff to the general population, which must be delivered in a non-auditory manner to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments. Deaf and Hard-of-Hearing incarcerated individuals and civil commitments housed in Department institutions should not miss alarms, emergency notifications, announcements, or other auditory information delivered by Department staff to the general incarcerated individual and civil commitment population solely because of their disability.

B. Relaying Emergency Information

The Department shall provide a non-auditory notification system to alert all Deaf and Hard-of-Hearing incarcerated individuals and civil commitments of emergency notifications. Appropriate non-auditory systems shall communicate with incarcerated individuals and civil commitments who are in their cells, units, bathrooms, and common areas.

C. Relaying Non-Emergency Information

1. The Department shall provide a non-auditory alert system that will be used to notify approved Deaf and Hard-of-Hearing incarcerated individuals and civil commitments of general routine notifications of prison-wide events

(including but not limited to announcements, visitation periods, and count) and individual routine notification of events specific to a Deaf and Hard-of-Hearing incarcerated individual or civil commitment such as the arrival of visitors or medical appointments. The non-auditory alert system shall rely upon:

- a. A visual or tactile notification system, and/or
 - b. In-person contact/communication between Department staff and the Deaf or Hard-of-Hearing incarcerated individual or civil commitment.
2. The Department staff shall convey any information to the incarcerated individual or civil commitment using simple written English, flash cards containing simple pictures and words, or other such means of simple communication to effectively convey to the Deaf or Hard-of-Hearing incarcerated individual or civil commitment the substance of the announcement or non-emergency alert.

X. VISUAL OR TACTILE NOTIFICATION SYSTEMS

A. Issuance of Visual or Tactile Notifications

Incarcerated individuals and civil commitments who have been identified as Deaf or Hard-of-Hearing via the Special Accommodation Notification form received from the Department's Contract Medical Provider shall be interviewed by the Institution ADA Coordinator via the Disability Accommodation Resources Assessment within five (5) days of the incarcerated individual or civil commitment being identified as Deaf or Hard-of-Hearing.

1. During the Disability Accommodation Resources Assessment conducted by the Institution ADA Coordinator or designee, the incarcerated individual or civil commitment will be provided an individualized assessment to determine the Auxiliary Aids and Services available to them. Incarcerated individuals and civil commitments will be educated on the benefits of Auxiliary Aids and Services for Effective Communication of emergency and non-emergency notifications. The Institution ADA Coordinator will recommend that Deaf and Hard-of-Hearing incarcerated individuals and civil commitments accept the Auxiliary Aids and Services as a reasonable accommodation for Effective Communication.
2. The Institution ADA Coordinator or designee will meet with the incarcerated individual or civil commitment after a decision is rendered and notify the incarcerated individual or civil commitment of all approved, denied, or modified Auxiliary Aids and Services.

3. All incarcerated individuals and civil commitments approved to receive an Auxiliary Aid or Service shall be afforded the opportunity to accept or waive the acceptance the Auxiliary Aid or Service. An acceptance or refusal to accept Auxiliary Aid or Service shall be documented on the applicable Acceptance/Waiver Form and filed with the Institution ADA Coordinator with a copy also forwarded to the Property Department. This in no way precludes an incarcerated individual or civil commitment from later applying or withdrawing from the Auxiliary Aid or Service.
4. Once the proper documentation is obtained, the incarcerated individual or civil commitment shall be assigned an Auxiliary Aid or Service from the Institution ADA Coordinator or designee for use and retention.

B. Vibrating Watches

The Department has also identified vibrating watches that a Deaf or Hard-of-Hearing incarcerated individual or civil commitment can program to vibrate at certain times. The Department shall offer a vibrating watch to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments whose primary language is ASL without requiring the individual to complete the Request for Reasonable Accommodation Form or follow the Reasonable Accommodation process. If a Deaf or Hard-of-Hearing incarcerated individual or civil commitment whose primary language is ASL selects the vibrating watch, it shall be provided to them. Vibrating Watches are property of the Department and shall be returned upon release from custody.

C. Tactile Notification System - MMCall Watch Pager

1. General Description of MMCall Watch Pager

The Department has selected the MMCall Watch Pager to provide approved incarcerated individuals and civil commitments with emergency and non-emergency notifications.

The MMCall Watch Pager is a one-way pager that relays messages from a transmitter to the individual MMCall Watch Pager to inform incarcerated individuals and civil commitments of emergency and non-emergency announcements. The MMCall Watch Pager is rechargeable and a charging station will be provided to approved Deaf and Hard-of-Hearing incarcerated individuals and civil commitments who accept this accommodation. MMCall Watch Pagers and the charging stations are the property of the Department and shall be returned upon release from custody.

The transmitter is the base station that staff will use to send messages to the MMCall Watch Pager to notify incarcerated individuals and civil

commitments of emergency and non-emergency announcements. This base station shall be affixed to the Officer's Station within the housing unit.

2. Property Department Responsibilities

The Property Department shall be responsible for engraving all watch pagers and pager charging stations. The Property Department shall engrave a unique identifier on both the MMCall Watch Pager and pager charging station. Each set (watch pager and pager charging station) shall have the same unique identifier. (E.g., Watch Pager #1 and Pager charging station #1 would be a set).

The Property Department shall also be responsible for entering the necessary information into the IMS Property Screen of the incarcerated individual or civil commitment MMCall Watch Pager and the pager charging station that was issued.

The Property Department shall be responsible for maintaining the IMS property screens for the addition and removal of the MMCall Watch Pager and pager charging station. This shall occur anytime an incarcerated individual or civil commitment changes housing units, transfers, releases, paroles, etc.

3. Housing Unit Officer Responsibilities

The Housing Unit officer shall issue and collect the MMCall Watch Pager and pager charging station in the following manner:

- a. The Institution ADA Coordinator or designee shall maintain a current list of all incarcerated individuals and civil commitments assigned an MMCall Watch Pager and pager charging station by housing unit.
- b. The Institution ADA Coordinator or designee shall contact the housing unit of the incarcerated individual or civil commitment receiving the MMCall Watch Pager and pager charging station.
- c. The Housing Unit officer shall activate and test the MMCall Watch Pager to ensure functionality of the unit.
- d. Upon positive functionality, the Housing Unit officer shall record the MMCall Watch Pager number, pager charging station number, incarcerated individual's or civil commitment's name, commitment number, and cell number on the Housing Unit MMCall Watch Pager Accountability Sheet (Attachment #1).

- e. When an incarcerated individual or civil commitment is moved out of the housing unit, the Housing Unit officer shall ensure the MMSync Watch Pager and pager charging station follows the incarcerated individual or civil commitment to the new housing unit within the institution. In cases where retention of the device is not allowed in the housing unit due to security concerns (e.g., BAU), the device shall be secured with the incarcerated individual or civil commitment's property.
- f. The Unit Team staff shall be responsible for reprogramming the MMSync Watch Pager to the paging system transmitter in the new housing unit within the institution to which the incarcerated individual or civil commitment is transferred.

4. Storage of MMSync Watch Pagers, Charging Stations, and Transmitters

All spare MMSync Watch Pagers, pager charging stations, paging system transmitters, and accessories shall be held in a secured location by the Institution ADA Coordinator.

5. Programming of MMSync Watch Pager

The Unit Team shall be solely responsible for the programming of the MMSync Watch Pager and paging system transmitters. Other personnel shall refrain from attempting to repair or reprogram the devices and shall contact the Unit Team in case of errors.

- a. The Unit Team shall provide placards to the Housing Unit officers about how to properly activate the watch paging system utilizing the base station.
- b. As part of the programming, the following preprogrammed messages shall be incorporated into the base station to be transmitted to the watch pagers:
 - Count
 - Lock-in
 - Chow call
 - Movement period
 - Appointments
 - Report to the Officer's Station
 - Medication call
 - Opposite sex in the unit
 - Emergency - Evacuate
 - Emergency - Return to Cell

- Emergency - Stay in Place

6. Unit Operations of MMCall Watch Pager

It shall be the responsibility of the Housing Unit Officers to activate the MMCall Watch Pager system to notify approved incarcerated individuals and civil commitments of emergency and non-emergency events listed in Section X (C)(5)(b) above.

- a. The Housing Unit Officer shall activate the MMCall paging system to issue the notification. The activated page event will then be documented in the Non-Auditory System Reports Log.
- b. If the incarcerated individual or civil commitment does not report to the Officer's Station for the in-person notification or is not seen leaving the unit for an appointment, the Housing Unit officer shall investigate in order to satisfy themselves that the incarcerated individual or civil commitment is not in any distress or that there is not an issue with the MMCall Watch Pager.
- c. The Housing Unit Officer shall document any issues with the MMCall Watch Pager system in an incident report and notify the Unit Team.
- d. Replacement of broken or inoperable MMCall Watch Pagers and pager charging stations shall be provided to the incarcerated individual or civil commitment in a timely manner. A supply of replacement MMCall Watch Pagers and pager charging stations shall be maintained at each institution for distribution.

7. Training Staff and Deaf and Hard-of-Hearing Individuals on MMCall Watch Pager Use

- a. Consistent with collective bargaining agreements, appropriate Department institution staff shall be initially trained in the use of the MMCall Watch Pager and paging system transmitter as the MMCall Watch Pager system is implemented at the institution. Appropriate Department institution staff will continue to be trained annually as part of the site-specific training curriculum. This training shall be documented by the Institution Training Officer (ITO).
- b. The Unit Team shall provide training on the use of the MMCall Watch Pager and charging station to approved incarcerated individuals and civil commitments who accept an MMCall Watch Pager. The training shall include written and visual instructions

and a list of the emergency and non-emergency codes. The Unit Team shall also provide training to incarcerated individuals and civil commitments about the procedure to report a missing or damaged MMSync Watch Pager or pager charging station, or to request a replacement of the MMSync Watch Pager or pager charging station from the Housing Unit officer.

- c. All approved incarcerated individuals and civil commitments who receive an MMSync Watch Pager and pager charging station must sign a receipt indicating that they have received an MMSync Watch Pager, pager charging station, instructions, and training on the operations of the MMSync Watch Pager and pager charging station.

8. Monitoring and Tracking MMSync Watch Pager Use

Following implementation of the MMSync Watch Pager system at the institution the following monitoring and tracking shall occur:

- a. On a weekly basis, the Director of Security or designee will review the Non-Auditory System Reports Log of at least one (1) housing unit in which Deaf and Hard-of-Hearing incarcerated individuals and civil commitments are housed and have been provided with MMSync Watch Pagers to determine if the system is operating and being used appropriately. The Director of Security/designee will ensure that each housing unit is reviewed each quarter.
- b. The Director of Security/designee shall provide the results of the weekly reviews, in writing, to the Superintendent and the Institution ADA Coordinator.
- c. The Superintendent shall submit a report of the weekly reviews to the respective Assistant Deputy Commissioner for the institution and the Department ADA Coordinator on a quarterly basis.

D. Repair and Replacement of Non-Auditory Alert Devices

The Department shall facilitate the prompt repair or replacement of personal non-auditory alert devices, including watch pagers, pager charging stations, vibrating watches, and similar devices, and shall maintain spare devices as required to avoid gaps in access. Additionally, the Department shall provide replacement of batteries for non-auditory alert devices to the incarcerated individual or civil commitment in a timely manner and a sufficient supply of replacement batteries shall be maintained at the institution for distribution or replacement.

E. Visual Notification System - Alertus System

1. The Department has selected the Alertus Notification System to provide visual emergency notifications to Deaf and Hard-of-Hearing incarcerated individuals and civil commitments. The Alertus system has several integrated components:
 - a. An Alert Beacon wall-mounted integrated audible-visual notification appliance will be installed in each cell in which a Deaf and Hard-of-Hearing individual is housed and certain common area bathrooms on the housing units where Deaf and Hard-of-Hearing individuals are housed. The Alert Beacon provides both sound and flashing strobes and a large text display. To limit tampering with and destruction of the Alert Beacons, an STI Thermostat Protector will be installed over each Alert Beacon. The STI Thermostat Protector is clear so that it will not obstruct the flashing strobes or the large text display.
 - b. An Alert Beacon and an Alertus LED Marquee will be installed in various common areas that do not currently have visual strobe alarms.
 - c. An Alertus Rapid Response Console will be used with the system. The Console permits customizable and preset alerts to be launched quickly.
2. The incarcerated individual or civil commitment shall be assigned a cell/housing assignment that has the Alertus System installed. This cell/housing assignment shall be documented in IMS and notification of the cell/housing assignment shall be communicated to the Institution ADA Coordinator and Fire Safety Officer.
3. Training on Emergency Notification System
 - a. Consistent with collective bargaining agreements, all appropriate Department institution staff shall be initially trained in the use and notification of the Alertus system. Appropriate Department institution staff will continue to be trained annually as part of the site-specific training curriculum. This training shall be documented by the Institution Training Officer.
 - b. All incarcerated individuals and civil commitments shall be trained in the operation of the Alertus System. Incarcerated individuals and civil commitments will also be trained about the procedure to report any operational issues or concerns regarding the Emergency Notification System to the Housing Unit officer.

F. LRS Paging System

The LRS E467 Alphanumeric Pager will remain available until the MMCall Watch Pager has been established at the institution in which the incarcerated individual or civil commitment is housed.

The LRS E467 Alphanumeric Pager is a one-way pager that receives messages from the LRS T7470 Paging System Transmitter to inform incarcerated individuals and civil commitments of announcements and non-emergency events. This unit runs on one (1) AAA battery that shall be provided by the institution. The LRS E467 Alphanumeric Pagers are property of the Department and shall be returned upon release from custody.

The LRS T7470 Paging System Transmitter is the base station that staff will use to send messages to the LRS E467 Alphanumeric Pager notifying incarcerated individuals and civil commitments of announcements and non-emergency events. This base station is a hard-wired unit that shall be affixed to the Officer's Station within the Housing Units.

1. Property Department Responsibilities

The Property Department shall be responsible for engraving all pagers and pager holders. The Property Department shall engrave a unique identifier on both the pager and pager holder. Each set (pager and pager holder) shall have the same unique identifier. (E.g., Pager #1 and Pager Holder #1 would be a set).

The Property Department shall also be responsible for entering the necessary information into the IMS Property Screen of the incarcerated individual or civil commitment for the pager and the holder that was issued.

The Property Department shall be responsible for maintaining the IMS property screens for the addition and removal of the pager and pager holder. This shall occur anytime an inmate changes housing units, transfers, releases, paroles, etc.

2. Housing Unit Officer Responsibilities

The Housing Unit officer shall issue and collect the pager and pager holder in the following manner:

- a. The Institution ADA Coordinator shall maintain a current list of all incarcerated individuals or civil commitments assigned a pager and holder with regard to the housing unit.

- b. The Institution ADA Coordinator shall contact the housing unit of the incarcerated individual or civil commitment receiving the pager and pager holder.
- c. The Housing Unit officer shall activate and test the pager to ensure functionality of the unit.
- d. Upon positive functionality, the Housing Unit officer shall denote the pager number, pager holder number, incarcerated individual's or civil commitment's name, commitment number, and cell number on the Housing Unit Pager Accountability Sheet (Attachment #1).
- e. Anytime an incarcerated individual or civil commitment is moved out of the housing unit, the Housing Unit officer shall collect the pager and pager holder from the incarcerated individual or civil commitment and notify the Institution ADA Coordinator of the move.

3. Storage of Pager

All spare LRS E467 Alphanumeric Pagers, LRS T7470 Paging System Transmitters, and accessories shall be held in a secured location by the Institution ADA Coordinator.

4. Programming of Pager

The Unit Team shall be solely responsible for the programming of the pagers and base stations. Other personnel shall refrain from attempting to repair or reprogram the devices and shall contact the Unit Team in case of errors.

The Unit Team shall provide placards to the Housing Unit Officers on how to properly activate the paging system utilizing the base station.

As part of the programming, the following preprogrammed messages shall be incorporated into the base station to be transmitted to the pagers:

- Count
- Lock-in
- Chow Call
- Movement Period
- Appointments
- Report to the Officer's Station
- Medication Call
- Opposite sex in the unit

5. Unit Operations of Pager

It shall be the responsibility of the Housing Unit officers to activate the paging system to alert approved incarcerated individuals and civil commitments with a pager of all announcements and non-emergency events including but not limited to the following:

- Counts
- Lock-in
- Chow Call
- Movement Period
- Appointments
- Report to the Officer's Station
- Medication Call
- Opposite sex in the unit

Upon commencement of one (1) of the above activities or related events, the Housing Unit Officer shall activate the paging system utilizing the base station either through an all call or an individual pager based on what is being called. The Housing Unit officer shall then document the event into the IMS Unit Activity Log.

If the incarcerated individual or civil commitment does not report to the Officer's Station for the in-person notification or is not seen leaving the unit for an appointment, the Housing Unit officer shall investigate in order to satisfy themselves that the incarcerated individual is not in any distress or that there is not an issue with the pager.

Any issues with the pager system shall be documented in an incident report and the Unit Team shall be notified.

Replacement of the single (1) AAA battery for the pager shall be provided to the incarcerated individual or civil commitment in a timely manner and a sufficient supply of replacement batteries shall be maintained at the institution for distribution.

6. Training on Pager Use

All staff shall be initially trained in the use of the LRS Alphanumeric Pager and LRS Paging System Transmitter. Staff will continue to be trained annually as part of the site-specific training curriculum. This training shall be documented by the Institution Training Officer.

All incarcerated individuals and civil commitments approved for, and accepting a pager, shall be trained by the Unit Team in the operation of the pager and the functional capability it will provide to notify them of prison-wide events (to include Count, Lock-in, Chow Call, Movement Period,

Medication Call, Opposite sex in the unit) and events (Appointments and report to officer's station) specific to them.

Incarcerated individuals and civil commitments will also be trained in the procedure to request a replacement battery from the Housing Unit officer. All replacements shall be based on providing one (1) depleted battery for one (1) new battery.

7. **Monitoring and Tracking Pager Use**

The Institution ADA Coordinator will be responsible for developing and tracking the appropriate use and documentation of the pager system.

It shall be the responsibility of the Institution ADA Coordinator at the institution to monitor and confirm that incarcerated individuals and civil commitments who have been identified as Deaf or Hard-of-Hearing and have been approved and received a pager have been paged of prison-wide events and events specific to an individual Deaf and Hard-of-Hearing incarcerated individual or civil commitment.

On a weekly basis the Institution ADA Coordinator will review the Inmate Management System (IMS) of at least one (1) housing unit in which Deaf and Hard-of-Hearing incarcerated individuals and civil commitments are housed and have been provided pagers, to determine if staff are paging those identified incarcerated individuals and civil commitments housed in the respective unit. All housing units in which incarcerated individuals and civil commitments who have been provided pagers shall be audited at least once per quarter. Additionally, the Institution ADA Coordinator will review if the unit staff assigned to the respective unit on all three (3) assigned shifts have entered the paged notifications in IMS. Paged notifications shall be entered into IMS for Count, Lock-In, Chow Call, Movement Period, Medication Call, Opposite sex in the unit, as well as specific paged notifications made to individual incarcerated individuals and civil commitments for appointments or to report to the Officer's Station. The results of this weekly review and audit shall be documented and forwarded to the Superintendent, Department ADA Coordinator, and the respective Assistant Deputy Commissioner of the institution, on a weekly basis.

G. **Supplementary Non-Auditory Information Relay Systems**

In addition to the foregoing devices, the Department shall also publish the institution specific schedule in the incarcerated individual and civil commitment orientation manual that each incarcerated individual and civil commitment receives when the incarcerated individual or civil commitment is housed in a specific institution and shall promptly post notice of any schedule changes in the

housing unit of each Deaf or Hard-of-Hearing incarcerated individual or civil commitment whose primary language is ASL.

XI. HOUSING DETERMINATIONS

- A. At a Deaf or Hard-of-Hearing incarcerated individual's annual classification hearing, the Department shall inquire whether the incarcerated individual would prefer to be housed at an institution that already houses the Deaf or Hard-of-Hearing incarcerated individual. If an incarcerated individual indicates such a preference, the Department will consider the incarcerated individual's request at the classification hearing. The Department shall document the incarcerated individual's request in the incarcerated individual's classification report.
1. If an incarcerated individual has made such a request and has been placed at an institution at which there are other Deaf and Hard-of-Hearing incarcerated individuals, the Department staff responsible for making housing determinations at that institution will consider the incarcerated individual's request in determining their housing unit placement after any orientation period.
 2. Once a Deaf or Hard-of-Hearing incarcerated individual has been placed at an institution, they may request to be housed with other Deaf or Hard-of-Hearing incarcerated individuals at that institution at any time by submitting a request to the institution's Superintendent. The Department shall document the Deaf or Hard-of-Hearing incarcerated individual's request to the institution Superintendent and the institution Superintendent's response thereto in IMS.
- B. These institution and housing placement requests are within the sole discretion of the Department and will be considered only after the Department has taken into account the various factors upon which it relies in making institution and housing placement decisions, including but not limited to classification status, individual programming needs, medical, mental health, and sex offender treatment needs, the need for Reasonable Accommodations, and conflicts between and among the incarcerated individual population (e.g., enemy situations, Security Threat Group (STG) affiliations, protective custody situations, etc.).
- C. The Department will not place a Deaf or Hard-of-Hearing incarcerated individual in a Department institution, housing unit, or cell in which it is unable to provide Reasonable Accommodations that ensure that the Deaf or Hard-of-Hearing incarcerated individual is afforded access to Department programs, services, and activities that is substantially equal to the access afforded to hearing incarcerated individuals placed in the same Department institutions, housing unit, cell, or status.

