

07-13-2016

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-210.201

RULE TITLE: ADA Provisions for Inmates

PURPOSE AND EFFECT: The purpose and effect of the amendment is to effectively split Form DC2-530 into two forms, DC2-530A and DC2-530B, to increase efficiency and confidentiality. This necessitated several changes to the text of rule 33-210.201.

SUMMARY: The proposed rule removes Form DC2-530 and effectively replaces it with two new forms, DC2-530A and DC2-530B. The proposed rule makes several changes to the text of the rule in order to clarify it and to provide guidance for the two new forms just mentioned.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: The Department has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the Department. The Department has determined that the proposed rule is not expected to require legislative ratification based on the SERC or, if no SERC is required, the information expressly relied upon and described herein: upon review of the proposed changes to the rule, the Department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), FS. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09, FS

LAWS IMPLEMENTED: 944.09, FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED

RULE IS: Adam Stallard, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.201 ADA Provisions for Inmates.

(1) No change

(2) Definitions.

(a) No change

(b) Auxiliary aids and services are include:

1. Qualified interpreters ~~on-site~~; notetakers; written materials; exchange of written notes; telephone handset amplifiers; telephones compatible with hearing aids; ~~closed-caption decoders~~; closed captioning; voice and text telecommunications products and systems, including text telephones (TTYs) or equally effective telecommunications devices; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing; and

2. Qualified readers; taped texts; audio recordings; Brailled materials; large print materials; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision; ;

~~3. Acquisition or modification of equipment or devices; and~~

~~4. Other similar services and actions.~~

(c) through (j) No change

(k) Qualified inmate with a disability – refers to an inmate with a physical or mental impairment that substantially limits one or more life activities and who meets the essential eligibility requirements of the department and Title II of the ADA of 1990 and whose access to the department’s programs, services, or activities can be accomplished by reasonable accommodation.

(l) through (m) No change

(3) Accommodation Request Procedure.

(a) No change

(b) All department and privately operated facilities shall furnish to any inmate, upon request, a Reasonable Modification or Accommodation Request, Form ~~DC2-530A~~ ~~DC2-530~~. Form ~~DC2-530A~~ ~~DC2-530~~ is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>

~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-02186>~~. The effective date of this form is \_\_\_\_\_ ~~1-13~~.

(c) Inmates ~~Individuals~~, who have a documented disability and are requesting an accommodation or

modification shall submit a request in writing on the Reasonable Modification or Accommodation Request, Form ~~DC2-530A~~ ~~DC2-530~~, specifying the type of accommodation requested and why it is necessary. ~~Any supporting documentation must be attached to Form DC2-530.~~

1. The Reasonable Modification or Accommodation Request, Form ~~DC2-530A~~ ~~DC2-530~~, shall be submitted to the warden or the designated intake officer. The designated intake officer shall be:

a. The assistant warden for programs (AWP) or the assistant warden (AW) at major department institutions, in the event the institution does not have an AWP; ~~and~~

b. The correctional officer major at department-operated community ~~work~~ release centers; ~~or~~

c. The designated facility representative at private community release centers.

2. Inmates who cannot put their requests in writing shall make their verbal requests to classification, security, the warden, or to the intake officer who shall document ~~reduce~~ the request ~~in~~ to writing on Form DC2-530A ~~on the DC2-530~~ and have the inmate sign or otherwise acknowledge it.

(d) Upon receipt of Form DC2-530A, the warden or intake officer shall review the inmate's accommodation request. The warden or intake officer shall, as necessary, utilize Form DC2-530B to request additional information from the appropriate program head in order to verify the inmate's disability or to otherwise assist with the review of the request. Form DC2-530B is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>. The effective date of this Form is \_\_\_\_\_.

~~(d) The warden or the intake officer shall review the DC2-530 and approve, give modified approval of, or deny the inmate's request for an accommodation. The warden or intake officer shall request additional information from the Chief Health Officer as necessary to verify the inmate's disability or to assist with the review of the request.~~

~~1. If the warden or intake officer approves the request for accommodation, the inmate and the ADA coordinator shall be notified by memo, with the anticipated completion date, if necessary, of the accommodation.~~

~~2. If the warden or intake officer denies or grants a modified approval of the request, she or he shall forward the form, and any supporting documents, to the ADA coordinator within ten (10) days, including a justification or reason for the denial or modification. The requesting inmate shall be notified of the action taken by memo.~~

(e) The warden or intake officer shall return the completed Form DC2-530A to the inmate within 10 days of

receipt. The completed DC2-530A shall reflect whether the accommodation request is either approved, denied, modified/partially approved, or returned without action, as well as the reason(s) for such disposition. The completed DC2-530A shall also reflect the anticipated completion date, if necessary, of the accommodation.

(f) The warden or intake officer shall forward both the completed Form DC2-530A and the completed Form DC2-530B, and any supporting documents, to the ADA coordinator within 10 business days of completion of Forms DC2-530A and DC2-530B.

(g)(e) The ADA coordinator shall review the request received and ~~notify~~ notify ~~the intake officer in writing of~~ whether ~~s/he she or he~~ concurs or disagrees with the warden or intake officer's decision.

1. If the ADA coordinator disagrees with the warden or intake officer's recommendation, ~~s/he she or he~~ will consult with the ~~appropriate~~ central office program area in which the accommodation is requested to obtain input.

2. If, after consulting with the appropriate central office program area in which the accommodation is requested, the recommendation of the ADA coordinator is a reversal of the warden's or intake officer's decision, Forms DC2-530A and DC2-530B ~~form~~ shall be returned to the warden or intake officer with a ~~memorandum~~ written notification stating the reasons for this action.

(h)(f) Once the institution receives this information, it will take steps to comply with the decision ~~recommendations~~ of the ADA coordinator and provide written notification to ~~notify~~ the inmate of the actions to be taken and the ADA coordinator when the action has been completed ~~taken by memo~~.

(i)(g) Copies of the requests and all other documentation shall be placed in the inmate's medical file and in the department's confidential ADA file located in central office.

(4) through (6) No change

(7) Health Care Appliances.

(a) Prescription and approval.

1. through 2. No change

3. Accommodations shall include modifying the appliance or substituting a different appliance, at the department's expense, as long as its function is equivalent or superior. Such modification or substitution shall instead be the responsibility of the department's Comprehensive Health Care Contractor (CHCC) if the contract between the department and its CHCC so provides.

(b) No change

(c) Maintenance of Health Care Appliances. It is the joint responsibility of the department, or, if provided in contract, its CHCC, and the inmate to maintain all health care appliances in good repair and operation. When an appliance is in need of repair or replacement, the inmate shall notify ~~health-care~~ staff of his or her needs by a medical call-out or a request to see a doctor.

1. Department staff, or, if provided in contract, its CHCC's ~~Health-care~~ staff, shall schedule the inmate for an appointment and evaluate the condition of the appliance.

2. No change

(8) through (9) No change

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 8-19-01, Amended 2-8-06, 11-22-06, 1-23-13, 9-30-13, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Darren Fancher, Director of Facilities Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie L. Jones, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: May 25, 2016