



Department of Human Services (DHS) Americans with Disabilities Act (ADA)

General Non-Discrimination Policies

The South Dakota Department of Human Services (DHS) is committed to providing equal opportunity to everyone participating in our programs, services and activities. The following is a list of DHS Americans with Disabilities Act (ADA) policies for providing equal access to qualified individuals with disabilities.

A qualified individual with a disability is defined as:

- 1) Individuals who have a physical or mental impairment that substantially limits one or more major life activities;
- 2) Individuals who have a record of a physical or mental impairment that substantially limited one or more of the individual's major life activities; or
- 3) Individuals who are regarded as having such an impairment, whether they have the impairment or not.

Employment: The Department does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the Americans with Disabilities Act. The department will provide reasonable accommodations if available to allow qualified individuals with disabilities to perform essential job functions.

Effective Communication: The Department will generally, upon request, provide appropriate auxiliary aids and services leading to effective communication for qualified individuals with disabilities so they can participate equally in the Department's programs, services, and activities.

Modifications to Policies and Procedures: The Department will make all reasonable modifications to policies and programs to ensure that qualified individuals with disabilities have an equal opportunity to enjoy all Department programs, services, and activities.

Maintenance of accessibility features: The department will maintain in working order equipment and features of facilities that are required to provide ready access to individuals with disabilities. Isolated or temporary interruptions in access due to maintenance and repair of accessible features are not prohibited. DHS will promptly repair all accessibility features or equipment when needed.

Fundamental Alteration/Undue Burden: The ADA does not require the Department to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Personal/individual prescribed devices or services: The ADA does not require DHS to provide individuals with disabilities with personal or individually prescribed devices, such as wheelchairs, prescription eyeglasses, or hearing aids, or to provide services of a personal nature, such as assistance in eating, toileting, or dressing.

Illegal use of drugs: The ADA does not require the Department to provide services to anyone engaged in the current and illegal use of drugs.

Direct threat: The ADA does not require the Department to provide services to an individual who poses a direct threat to the health or safety of others. Direct threat is a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by the public entity's modification of its policies, practices, or procedures, or by the provision of auxiliary aids or services. The department will not base a direct threat determination based on generalizations or stereotypes about the effects of a particular disability.

The determination must be based on an individualized assessment that relies on current medical evidence, or on the best available objective evidence, to assess --

- 1) The nature, duration, and severity of the risk;
- 2) The probability that the potential injury will actually occur; and,
- 3) Whether reasonable modifications will mitigate or eliminate the risk.

Retaliation or coercion: Individuals who exercise their rights under the ADA, or assist others in exercising their rights, are protected from retaliation. The prohibition against retaliation or coercion applies broadly to any individual or entity that seeks to prevent an individual from exercising his or her rights or to retaliate against him or her for having exercised those rights. Any form of retaliation or coercion, including threats, intimidation, or interference, is prohibited if it interferes with the exercise of rights under the ADA.

Surcharges: The Department will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy.

Existing facilities: DHS must operate each program, service or activity so that when viewed in its entirety, is readily accessible to and useable by individuals with disabilities. DHS is not required to make structural changes in existing facilities where other methods are effective in providing access. In choosing available methods DHS will give priority alternative methods that offer programs services and activities in the most integrated setting appropriate. Some examples of alternative methods are redesign or acquisition of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, or any other methods that result in making DHS programs, services or activities readily accessible to and usable by individuals with disabilities.