



DISABILITY LAW CENTER OF ALASKA

PRISONER RIGHTS

A GENERAL GUIDE FOR INMATES
WITH DISABILITIES IN
ALASKA CORRECTIONAL FACILITIES

MEMBER OF THE
NATIONAL DISABILITY
RIGHTS NETWORK

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The contents are solely the responsibility of the grantee and do not necessarily represent the official view of either Center for Mental Health Services, Substance Abuse and Mental Health Services Administration or the United States Department of Health and Human Services.

All laws are subject to change by legislation and by court decisions. This information is not intended to be legal advice. It is a Public Education resource. Readers should use the guide for information, and then ask questions about their own individual needs.

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EXPLANATION OF GUIDE

This guide is offered to provide information to inmates with disabilities in correctional facilities operated by the Alaska Department of Corrections (DOC). This guide is based in part on the policies and procedures of DOC. These policies and procedures apply to all DOC inmates. If you have any additional questions regarding any of the DOC policies and procedures referenced in this guide, consult your prisoner handbook.

Nothing included in this guide constitutes legal advice. If you have a legal question, contact your attorney.

The Disability Law Center of Alaska (DLC) may be able to help you in the following situations:

- Getting appropriate mental health treatment if you have been diagnosed with a mental illness;
- Getting appropriate medical treatment if you have a disability;
- Getting an accommodation if you are diagnosed with a disability.

The DLC cannot help with issues of:

- Discipline;
- Classification;
- Placement (Relocation to another prison site, in or outside of Alaska);
- Complaints of staff misconduct;
- Problems relating to your criminal conviction or new criminal charges brought while incarcerated.

HOW TO ASK FOR AN ADA ACCOMMODATION

Under the Americans with Disabilities Act (ADA), the prison cannot treat an individual with a disability differently from those who do not have a disability solely on the basis of the disability. Prisoners with disabilities must have access to the same programs, services and activities as prisoners without disabilities. It may be discrimination if DOC refuses to accommodate a valid request.

Some examples of ADA Reasonable Accommodations:

- Using a shower chair if standing in the shower is impossible.
- Having important prison or program information in a format you can understand if you are deaf or blind.
- Being assigned a lower bunk if you have medical diagnoses and verification that you suffer from vertigo.

Security is the prime concern for prison officials. If an accommodation is provided, and it is used as a weapon, the inmate may have forfeited the right to that accommodation. (For example: using a crutch to attempt to injure someone.)

If you believe you have been denied access to a program, service, or activity because of your disability, you must attempt to correct the situation informally (with a cop-out) before using the formal grievance process.

Informal Process

- File a Request for Interview (cop-out) form.
- Direct the cop-out to the person best able to assist you.
- If unsuccessful, proceed with the formal Request for Accommodation.

Formal Process - Request for Accommodation

The Request for Accommodation asks for the modifications or actions you need to access the service, program or activity. Follow these steps:

1. Within 90 days of the perceived discrimination, contact the Institution ADA Coordinator.
2. Fill out the form provided by the ADA Coordinator.
3. Sign the form, or have your authorized representative sign it.
4. Submit form to the Institution ADA Coordinator.

The review process for a Request for Accommodation is similar to the grievance process. Each facility has a prisoner ADA coordinator who can assist you with questions or problems with your request. Following is a break-down of the process:

Step 1: Request for Accommodation (Form 808.16A).

- Include name, OTIS number, and description of the incident in detail.
- If necessary, include Accommodation for Offender Release (Form 808.16B) and/or
- Health Care Provider Information (Form 808.16C).

Forms 808.16B and 808.16C are available from the ADA Coordinator.

Step 2: Meeting

- Within 10 working days of receiving your Request for Accommodation, the Institution ADA Coordinator will meet with you to try to resolve the issue immediately. NOTE: If you need an accommodation for the meeting (e.g., interpreter) let the ADA Coordinator know in advance.
- The Institution ADA Coordinator will create a file that will be updated throughout the process. A copy of this file will be forwarded to the DOC ADA Coordinator.
- A copy of this file will be sent to the State ADA Coordinator within 5 working days of having received the request for accommodation.

Step 3: The Agreement

- If you come to a satisfactory agreement, a written agreement will be drawn. A copy shall be given to the inmate within 10 working days of the meeting.
- If no agreement is reached, the institution must notify the inmate in writing or other means of communication when necessary within 10 working days of the meeting stating the reasons why the request was denied.

Step 4: First appeal, to DOC ADA Coordinator

- If no agreement was reached, the inmate can request a review of the decision from the DOC Prisoner ADA Coordinator.
- The procedure and timelines will track those in Step 2 above.

Step 5: Second Appeal, to State ADA Coordinator

- Within 10 working days of being notified that the DOC ADA Coordinator denied the request, the inmate may request a review by the State ADA Coordinator.
- The request for review must include a detailed explanation of why the review is requested.

Step 6: Final Administrative Review

- The State ADA Coordinator will respond within 30 working days advising of the decision.
- If the State ADA Coordinator finds that the prison is in compliance with the ADA, or that it has not engaged in discriminatory activities, s/he will advise the prisoner how to appeal to the Alaska Human Rights Commission and the U.S. Department of Justice. A prisoner may also contact the Disability Law Center or a private attorney.

TIPS ON FILING A GRIEVANCE

Timelines are very important. Times in which you must respond or appeal are based upon when the prison official receives your request, grievance, or appeal. For this reason, **ALWAYS BEGIN COUNTING TIME BY THE DATE ON WHICH YOU FILE THE REQUEST, GRIEVANCE OR APPEAL.** When possible, drop the request, grievance, or appeal in the locked box in the morning.

- Be sure you are following the correct grievance procedure for your issue. There are separate grievance procedures for Health Care (including Mental Health treatment), Emergencies, and other problems.
- Watch timelines.
- Fill the form out carefully; be sure to follow all directions.
- Request help from your caseworker or other designated staff member.
- Fill in all the spaces.
- Use a separate form for each issue.
- Sign your name and enter the date of the grievance form.
- Fill out your name, inmate OTIS number, and unit.
- Place the grievance in the appropriate locked box.
 - o Ask another inmate to watch you put your grievance in the envelope and into the locked box.
 - o Ask this inmate to write down the time and date you did this and to sign this paper.
 - o Keep this inmate's written statement for your records.

You CANNOT grieve the following:

- Classification decisions regarding security or custody levels, facility placement, work and program eligibility and assignments, or furlough.
- Disciplinary decisions.
- Medical charge disputes.
- Administrative transfers.
- Alaska Parole Board procedures or decisions.
- Court procedures or decisions.
- Claims being litigated in court.
- Decisions on whether there is or is not an emergency.
- Unrelated issues that should be in a separate grievance.

SCREENED GRIEVANCES

A grievance will be screened (i.e. denied) for the following reasons:

- The action or decision does not involve DOC regulations, statutes, policies or procedures. Rights under federal statutes, such as the Americans with Disabilities Act, are included in the DOC regulations.
- The grievance does not meet the timeline requirements or is not completed properly or has not been filled out completely.
- The action requested is unclear.

- You used profanity or obscenity.
- The incident has not yet occurred.
- There was no attempt to resolve the issue informally.
- The issue was already grieved by another prisoner and resolved.
- The grievance is on behalf of another prisoner who is able to grieve it.
- Based on the facts, the grievance is clearly ridiculous and has no merit.
- There are too many issues. Separate grievances must be filed for each complaint.
- The grievance is outside the jurisdiction of the prison, i.e., an outside provider gave your health records to a third party without your consent.
- The issue is currently being reviewed by the court system.

Always ask for two forms of every grievance or appeal you file so that you can keep one handwritten form for your own files.

ABUSE OF GRIEVANCE SYSTEM

It is considered an abuse of the grievance system if you:

- File more than 5 grievances in a week;
- File more than 20 grievances in an 180 consecutive days; and/or
- Demonstrate a pattern of filing frivolous or repetitious grievance or by filing false statements

If you are found to abuse the grievance system, you may be subject to a restriction on filing grievance and/or discipline

Be sure you follow ALL rules and procedures when filing a grievance to ensure your grievance is addressed.

HOW TO ASK FOR MEDICAL TREATMENT FOR A DISABILITY

Asking for treatment for a disability is the same as asking for any other medical treatment.

Some examples of asking for medical treatment for a disability are:

- Your medication caused you to gain weight and your prosthesis no longer fits you and DOC will not provide a replacement.
- You think you might have a foot infection, caused by your diabetes.
- Your seizure disorder seems to be getting worse, even with the medication you are receiving.

The DOC is required to provide the most cost effective medical, dental, and mental health care comparable to that received by the general public. DOC can seek reimbursement for services from third parties when appropriate.

Non-emergency:

- Attend Sick Call. DOC will schedule Sick Call from 1 day a week for institutions with less than 50 inmates to 5 days a week for institutions with over 200 inmates. It is available for all inmates, regardless of classification or status.
- Complete a Request for Medical Care form and place in the appropriate locked box.

Emergency:

Notify any prison staff immediately if you are having a medical crisis.

HOW TO ASK FOR MENTAL HEALTH TREATMENT

Asking for mental health treatment is the same as asking for regular medical care: You can either attend Sick Call or submit Request for Medical Care, **unless you are having a mental health crisis.**

Examples of a mental health crisis include:

- Feeling you might hurt yourself or others.
- Feeling your symptoms are getting worse, quickly.

Notify any prison staff immediately if you are having a mental health crisis.

Examples of Non-Crisis Request for Mental Health Care Include:

- You take medication for depression and the medication is helping you a little, but you would like to try increasing the amount to see if it would help more.
- You are hearing voices again and want to see a doctor.
- You would like to have more out-patient therapy because you are having a hard time dealing with some of the symptoms of your mental illness.

HEALTH CARE GRIEVANCE PROCESS

DOC provides medical care that is economical and comparable to that in the community at large.

If you believe you have not received proper medical care that you have requested for a well-founded medical problem, including a mental illness, there is a special grievance process that includes the medical staff. There are only 3 steps in the health care grievance process:

- 1. Informal resolution**
- 2. Formal Grievance - Level 1**
- 3. Appeal**

Be sure to complete all of these levels within the appropriate time limits or you may have to start the process over or lose your ability to grieve the issue.

Informal Resolution

Before filing a formal grievance, the inmate must attempt to resolve the issue informally with the staff member involved, or a staff member aware of or directly involved with the incident.

If direct verbal communication does not resolve the issue, the inmate must file a Request for Interview Form and place it in the appropriate locked box.

Be sure to keep a record of everything that occurs during this “informal” stage. You must report your efforts in the formal Grievance Procedure.

If the prison ignores or denies any part of your attempts to resolve your issue informally, you can begin the formal grievance process.

If your grievance involves allegations of staff misconduct, you are not required to attempt to resolve the grievance informally with the staff member who is the subject of the grievance.

If you are unable to resolve your issue through this informal procedure, you may file a formal complaint. This begins the formal Grievance Procedure.

You have 30 days from the date of your first request for medical treatment to begin the formal grievance procedure. Use this timeline when waiting for a response to your Request for Interview.

Formal Grievance - Level 1

- 1. Within 30 days of the incident, or within 30 days that you found out about the incident, you must complete page one of the Prisoner Grievance Form.** Two additional pages may be attached. Ask the unit officer or your caseworker for the appropriate form.

2. You must include any response to the “Request for Interview” from the informal procedure to your grievance.
3. If you had no response from your informal attempt to resolve the issue, you must include the name of the person with whom you tried to resolve the issue, when this occurred, and the results from the meeting.
4. Fill out the form carefully. Explain clearly what you want, and why you should be granted your request. If you have more than one medical issue, **file separate grievances for each one.**
5. Place the grievance in the appropriate locked box. Be sure you signed the form, and checked all appropriate boxes. Ask your caseworker for assistance if necessary.
6. If possible, have another inmate watch you place the grievance in the box. Have the inmate write the information with time and date and keep this written statement for your records.
7. If the grievance cannot be screened or easily resolved, the grievance shall be forwarded to the Institutional Health Care Officer for investigation. If you do not receive a response within **15 working days** (excludes weekends and holidays), you should assume the grievance is unfavorable and continue to the next step.
8. The Institutional Health Care Officer will investigate the grievance, gather relevant medical records, and issue a written decision containing a statement of findings.

Appeal

Within 2 working days after receiving the response to your grievance, you may file an appeal.

1. Complete the Prisoner Grievance Appeal Statement. Be sure you signed the form, and checked all the appropriate boxes. Ask your caseworker for assistance if necessary.
2. Place the form in the appropriate locked box. Have another inmate watch you drop the appeal. Have him/her write down the time and date and keep it for your records.

The Health Care Administrator will assign an impartial investigator. The investigator will investigate the matter within 10 working days of the receipt of the grievance appeal, and provide the Medical Advisory Committee with a written statement of findings and recommendations.

Within 5 working days of the receipt of the investigator’s statement, the Medical Advisory Committee will review the findings and recommendations and issue a written decision with the findings of fact and conclusions as to the merits of the grievance.

The decision of the Medical Advisory Committee is the final administrative action on the grievance by DOC.

THE STANDARD GRIEVANCE PROCEDURE

There are four (4) levels in the Alaska DOC grievance process including:

- Informal Resolution
- Formal Grievance Procedure - Level 1
- Formal Grievance Procedure - Level 2
- Formal Grievance Procedure - Level 3

This process is used for all grievances **other than** emergency grievances, health care grievances (including mental health) and grievances against staff.

You must follow all deadlines for filing grievances and appealing decisions. If you miss a deadline, you may have to start the process all over again, or, you may lose the opportunity to grieve the issue. If you have problems with the grievance process, contact your Facility Standards Officer or the assigned staff officer and explain your problem.

NOTE: If you do not receive a response from DOC within the designated time limits, assume the decision is unfavorable (i.e. the DOC has denied your request) and continue with the next step.

Informal Resolution

Before filing a formal grievance, the inmate must attempt to resolve the issue informally with the staff member involved, or a staff member aware of or directly involved with the incident. If direct communication does not resolve the issue, the inmate must file a Request for Interview Form and place it in the appropriate locked box.

Be sure to keep a record of everything that occurs during this “informal” stage. You must report your efforts in the formal Grievance Procedure.

If the prison ignores or denies any part of your attempts to resolve your issue informally, you can begin the formal grievance process by filing a formal complaint. This begins the formal Grievance Procedure.

Formal Grievance Procedure

You have 30 days from the date of the incident to begin the **formal grievance procedure**. Use this timeline when waiting for a response to your Request for Interview.

Grievance Procedure - Level 1

1. **Within 30 days of the incident, or within 30 days that you found out about the incident, the you must complete page one of the Prisoner Grievance Form (Form 808.03C).** Two additional pages of narrative may be attached if you need additional room to explain your grievance. Ask the unit

officer or your caseworker for the appropriate form.

2. You must include any response to the "Request for Interview" from the informal procedure to your grievance.
3. If you had no response from your informal attempt to resolve the issue, you must include the name of the person with whom you tried to resolve the issue, when this occurred, and the results from the meeting.
4. **Fill out the form carefully.** Explain clearly what you want, and why you should be granted your request. **Put only one issue on each grievance form.** If you have more than one issue, fill out an additional grievance for each issue. Only file a grievance for a real issue. **Too many grievances, or frivolous grievances, may be considered abuse of the system.**
5. Place the grievance in the appropriate locked box. Be sure you signed the form, and checked all appropriate boxes. Ask your caseworker for assistance if necessary.
6. If possible, have another inmate watch you place the grievance in the box. Have the inmate write the information with time and date and keep this written statement for your records.
7. **If you do not receive a response within 15 working days you should assume the grievance is unfavorable and continue to the next step.**

Grievance Procedure - Level 2

If the prison denies or ignores any part of your Procedure Level One Grievance, or you disagree with the decision, you may file an appeal of your Level One Grievance. This appeal is called a Level Two (2) Grievance.

1. You must file your Level 2 grievance **within 2 working days of the date your Level One Grievance was denied.**
2. **If you have not received a response** to your Level One grievance within 15 working days, assume it has been decided against you. **File your Level 2 grievance within 2 days of when the 15 working day deadline of Level 1 grievance was due.**
3. Ask your caseworker, or housing officer, for the Prisoner Grievance Appeal Statement. Address the Appeal Statement to the Facility Standards Officer and deposit in the appropriate locked box.
4. Explain why you think the first grievance was not handled correctly. Clearly state why you think you should have the services you requested. Clearly explain why they should not be denied. **Focus on the original issue.**
5. You can include only information addressed in the original grievance. **No new or additional information is permitted.**
6. Place your grievance in the appropriate locked box.

7. If possible, have another inmate watch you place the grievance in the box. Have the inmate write the information with time and date and keep this written statement for your records.
8. **If you do not receive a response to your Level 2 grievance within 15 working days, consider the appeal denied, and proceed to Level 3.**

Grievance Procedure - Level 3

If you feel your grievance was not handled consistent with DOC policy, you may file an appeal of your Level Two Grievance. This appeal is called a Level Three Grievance. This Grievance will go to the Standards Administrator. The Standards Administrator must respond in writing directly to you. You will not meet with the Standards Administrator.

1. The appeal **must be received by DOC within 20 working days** after receiving the Director's decision.
2. You file a Level 3 review by submitting a letter (no more than two pages) to the Standards Administrator. Place the letter in a sealed envelope and send it directly to the Standards Administrator.
3. DOC must respond to you within 20 working days of receiving your appeal. **Again, if there is no response to the appeal within 20 days, consider the appeal denied.**
4. If DOC responds late to your Level Three Grievance, but grants your request, it is valid.
5. This decision is the final administrative action by the Department on the grievance.

HOW TO GET HELP

If you have completed all levels of the prison grievance process, and you are still unsatisfied, you may seek additional assistance from one of the following sources. **Before contacting these sources, be sure you have documentation that you have completed ALL steps of the prison grievance process.**

Alaska Bar Association Lawyer Referral Service

If you would like to talk with a private attorney, the Lawyer Referral Service can give you names of attorneys in specific areas of law.

P.O. Box 100279
Anchorage, Alaska 99510-0279
Phone: (907) 272-0352
Statewide: 1-800-770-9999

The Disability Law Center of Alaska (DLC)

DLC can only assist individuals who have legal issues directly related to their disability. DLC cannot help you with criminal issue or appeals. A disability is a physical or mental impairment that greatly limits one or more major life activity. "Major life activities" include, but are not limited to, walking, talking, breathing, learning, working, and caring for oneself.

DLC can help you with a medical care issue only if the health care or failure to provide health care is causing such severe deterioration in your health that it may be abuse or neglect, and you have a disability. However, you may have a civil law suit. If this is the case, you should contact a private attorney.

If you have a disability, DLC may be able to help you, but **only if you have correctly grieved the issue through ALL levels of the prison grievance process.**

If the DLC is unable to assist you, you may be able to get assistance from the following:

The Alaska State Commission for Human Rights (ACHR)

ACHR is the state agency which enforces the Alaska Human Rights Law. ACHR accepts complaints of discrimination because of race, religion, color, national origin, sex, and physical/mental disability.

800 A Street, Suite 204
Anchorage, Alaska 99501
Phone: (907) 274-4692
TTY/TDD 276-3177 or 1-800-478-3177
Statewide: 1-800-478-4692

Alaska Civil Liberties Union (ACLU)

The ACLU works to defend and preserve individual rights and liberties guaranteed to every person in this country by the Constitution and laws of the United States.

P.O. Box 201844
Anchorage, Alaska 99520
Phone: 907-276-2258

Alaska Native Justice Center (ANJC)

ANJC serves as a bridge between Alaska Natives and Alaska's justice systems.

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1-800-478-1234

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230 South Franklin, #206; Juneau, Alaska 99801
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