

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL

<u>Policy Type</u>	<u>Subject of Policy</u>	<u>Policy No.</u>
Service	Reporting of Denial of Access to Services	3018

1. Purpose. This policy has been established to ensure compliance with the Americans with Disabilities Act (ADA) PL 101-336; 42 USC 12101 et. seq. This policy establishes reporting requirements and processing criteria for denial of access to services to eligible or qualifying persons with developmental disabilities.
2. Scope. This policy applies to all Division of Developmental Disabilities Services (DDS) programs and services and their employees.
3. Definitions.
 - A. ADA – Americans with Disabilities Act (PL 101-336; 42 USC 12101 et. seq.). The purpose of the act is to prohibit discrimination against people with disabilities in employment, transportation, public accommodation, communications, and activities of state and local government.

Section 302 – Prohibits persons who own, lease, operate public accommodations from discriminating on the basis of a disability.
 - B. Eligibility Criteria – See Act 513 of 1981 and DDS Interpretive Guidelines in making service eligibility determination. Eligibility Criteria should identify those persons who are eligible to receive services.
 - C. Program and Services – The operation of the Department of Human Services – Division of Developmental Disabilities Services Community Programs and Services licensed, or funded wholly or in part by the Division of Developmental Disabilities.
 - D. Public Accommodation – Includes health care providers, offices, hospitals, other service establishments, private schools, or other places of education; and social service center establishments.

Effective Date: December 1, 1993

Sheet 1 of 4

References: Public Law 101-356 of 1990; Ark. Statute 20-48-101.

Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council; November 4, 1993.

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- E. Discrimination includes:
1. The establishment of eligibility criteria that tend to screen out applicants with disabilities unless it is shown that the criteria is necessary for the delivery of services;
 2. A failure to make reasonable modifications in the policies, practices, or procedures to accommodate people with disabilities unless it can be demonstrated that such modifications would require fundamental alterations to the provider's service;
 3. Failure to provide auxiliary aids for persons with disabilities unless it can be demonstrated the provision of aids would fundamentally alter the nature of the provider's services or would result in an undue burden;
 4. A failure to remove architectural barriers and communications barriers where removal is readily achievable.
- F. Reasonable Accommodation – Any change in the work environment (program) or in the way things are ordinarily done (why the program is operated) that results in equal employment opportunity (equal access to services) for an individual with a disability.
- Example: Making existing facilities used by service recipients readily accessible to, and usable by, an individual with a disability. Acquiring or modifying equipment or devices.
- G. Undue Burden – An action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation.
- Factors: Nature and cost of the accommodation in relation to the size, the financial resources, the nature and structure of employer's operation.
- Impact of the accommodation on the facility providing the accommodation.

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4. Access. DDS shall have access to the premises and records of programs and services at all times for the purpose of reviewing compliance with this policy and applicable licensure standards.

5. Development of Program Procedures.
 - A. Each DDS Program and Service shall develop and implement uniform procedures for access to services and conforming to the guidelines set forth herein and in accordance with ADA. Each service provider shall refer the applicant, who has been denied services, to another service provider. Uniform procedures shall be implemented by promulgation of licensing standards, policy and directives.

 - B. DDS Programs and Services shall develop procedures for documenting and reporting denial of access to services to designated DDS Staff.

 - C. A copy of each DDS Program's procedures will be submitted to DDS Licensure Staff for approval.

 - D. For the purpose of this policy, implementation shall include communication to managers, supervisors, and responsible persons (within a community program) regarding the duties and obligations imposed by this policy.

6. Reporting Requirements. Denial of access to services shall be reported verbally within twenty-four (24) hours to DDS Client Services (682-8677) and written confirmation submitted to DDS Licensure within three (3) working days of occurrence. (See Form ADA-1.)

The report shall include at least the following:

1. Name of program
2. Full name of individual
3. Date of birth
4. Sex
5. Race
6. Social Security Number
7. County of Residence
8. Name, address and telephone number of individual or parent/guardian (if applicable)

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9. Date of application
 10. Name of all services requested
 11. Name of service requested and denied
 12. Specific reason for denial of access to service
 - a. Undue burden
 - b. Fundamental change to a program
 13. Where the individual was referred
 14. Results of the referral (s)
7. Outcome. Verified failure to adhere to this policy could jeopardize the licensure or contract status of a program or service.
8. Appeal. Should a Program/Service Director disagree with a decision made, he/she may appeal that decision by following procedures outlined in DDS Policy # 1076.
9. Departmental Contact.

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