

	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CIVIL RIGHTS POLICY MANUAL			
	Chapter:	3400	Effective Date:	December 4, 2020
	Policy Title:	Americans with Disabilities Act and Section 504 of the Rehabilitation Act		
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POLICY

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the Division of Family and Children Services (DFCS).

SCOPE

This policy of non-discrimination is equally applicable to DFCS and Georgia Department of Human Services staff, including volunteers and interns, and its subrecipients, contractors, grantees, agents, and providers of services (“Providers”), who assist with or administer programs, services, and activities that fall under DFCS’ Office of Family Independence. This policy is not applicable to child welfare and employment matters.

REQUIREMENTS

DFCS must:

- Make reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability, unless it is demonstrated that making the modification would fundamentally alter the nature of the service, program, or activity or would result in undue financial and administrative burdens;
- Provide public notices regarding the right of qualified individuals with disabilities to make a request for reasonable modifications and auxiliary aids and services;
- Provide equally effective communication with primary consideration given to the person with a disability by considering the nature, length, complexity, and context of the communication and the person’s normal method(s) of communication; and,
- Administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

AUTHORITIES/REFERENCES (This list is not exhaustive)

- Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; 7 C.F.R. §§ 15b et seq. [USDA], 45 C.F.R. §§ 84.1 et seq. [HHS]
- Title II of the Americans with Disabilities Act of 1990 (“ADA”) as amended by the ADA Amendments Act of 2008, 42 U.S.C. §§ 12131 et seq., 28 C.F.R. §§ 35.101 et seq. [DOJ]
- Title III of the ADA as amended by the ADA Amendments Act of 2008, 42 U.S.C. §§ 12181 et seq., 42 U.S.C. §12205a; 28 C.F.R. §§ 36.101 et seq. [DOJ] (as applicable)
- Section 11(c) of the Food and Nutrition Act of 2008, as amended, 7 U.S.C. § 2020(c) [USDA]
- R.H. et al. v. Rawlings et al., CAFN: 1:17-CV-01434-TWT (N.D. Ga. 2019) (Consent Order, filed on June 4, 2019)
- FNS Nondiscrimination Compliance, 7 C.F.R § 247.4(c)(6), 7 C.F.R § 251.10(c), and 7 C.F.R. § 272.6
- FNS Instruction 113-1: Civil Rights Compliance and Enforcement – Nutrition Programs and Activities and its Appendix A and Appendix C

DEFINITIONS

*Note: Some of the definitions below are available at ADA.gov and are derived from the ADA, the Rehabilitation Act, and implementing regulations.

Auxiliary Aids and Services - Includes but is not limited to: qualified sign language interpreters, telephone handset amplifiers, assistive listening devices, closed caption decoders, real time captioning, TTY/TTD relay services for deaf and hard-of-hearing, screen reader software, Braille Embossers, text to Braille converter, large print materials, alternative keyboards for individual who are blind and have low vision.

Companion - any family member, friend, or associate of a person seeking or receiving an entity’s goods or services who is an appropriate person with whom the entity should communicate.

Disability – means, with respect to an individual: (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual; (ii) A record of such an impairment; or (iii) Being regarded as having such an impairment as described in paragraph (f) of this section.

Mobility Aids and Other Power-Driven Mobility Devices - any mobility device powered by batteries, fuel, or other engines... that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices... such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair.

Qualified Individual with a Disability – An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department.

Qualified Interpreter - An interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

Reasonable Modification - Modifications to rules, policies, practices, or procedures, the removal of architectural, or transportation barriers as described in 28 C.F.R. § 35.130(b)(7). This definition excludes modifications that would result in a fundamental alteration in the nature of a service, program, or activity or that would result in undue financial and administrative burdens, under the conditions specified in 28 C.F.R. § 35.130(b)(7), 28 C.F.R. § 35.164 and elsewhere.

Note: R.H. et al. v. Rawlings et al., CAFN: 1:17-CV-01434-TWT (N.D. Ga. 2019) (Consent Order, filed on June 4, 2019) considers provision of auxiliary aids and services a reasonable modification. However, the ADA regulations list equally effective communication requirements and auxiliary aids and services separate and distinct from reasonable modifications. DFCS will ensure equally effective communication as described in 28 C.F.R § 35.160 and 28 C.F.R § 36.303.

Reasonable Modification and Communication Assistance Request Form - A form, either in paper or electronic format that can be used, at the option of the customer with a disability, to request a reasonable modification or communication assistance and for purposes of tracking the request and response.

Request for Reasonable Modification and Communication Assistance- Any specific written or oral statement by or made appropriately on behalf of a customer with a disability, including through the “Reasonable Modification and Communication Assistance Request Form” that indicates the individual has a disability for which he or she needs a reasonable modification or communication assistance to access all DFCS programs, benefits, or activities. A request for reasonable modification includes instances where the individual initiates the request for assistance.

Service Animal – Any dog that are individually trained to do work or perform tasks for the benefit of an individual with disabilities.

Video Relay Service (VRS) – A free, subscriber-based service for people who use sign language and have videophones, smart phones, or computers with video communication capabilities. For outgoing calls, the subscriber contacts the VRS interpreter, who places the call and serves as an intermediary between the subscriber and a person who uses a

standard voice telephone. The interpreter tells the telephone user what the subscriber is signing and signs to the subscriber what the telephone user is saying.

Video Remote Interpreting (VRI) - An interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in 28 C.F.R. § 35.160(d).

Wheelchair - A manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.

COORDINATION OF SERVICES/SELF-ASSESSMENT/MONITORING

DFCS must designate an individual to serve as the point of contact for staff and the general public regarding ADA disability access matters and to coordinate implementation of this policy. Local government agencies and other public entities with whom the DFCS contracts that employ 50 or more persons must also designate at least one employee to coordinate its efforts to comply with the ADA. (Reference: 28 C.F.R. § 35.105)

DFCS and its Providers that receive federal financial assistance (FFA) from the USDA and that employ 15 or more individuals must also appoint a Section 504 coordinator to coordinate services and resources for individuals with disabilities. One person may coordinate implementing regulations, directives, and guidance for both statutes. The name, office address, and telephone number of the Section 504/ADA Coordinator must be provided to all interested persons. (References: 7 C.F.R. § 15b.6 and 45 C.F.R. § 84.7)

The primary responsibilities of a Section 504/ADA Coordinator are listed in Attachment 2. The DFCS Section 504/ADA Coordinator must convene regular meetings with Section 504/ADA Coordinators serving the DFCS local agencies, subrecipients and contractors that deliver services directly to the public.

QUALIFIED INDIVIDUAL WITH A DISABILITY

An individual with a disability under the ADA is defined as a person with a physical or mental impairment that substantially limits one or more major life activity; a person who has a record of such an impairment; or a person who is regarded as having such an impairment. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs or alcohol.

Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids

and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

PUBLIC NOTIFICATIONS

DFCS and its Providers must notify individuals with disabilities about the availability of free reasonable modifications and auxiliary aids and services and how to request them in a format that individuals can understand. DFCS and its Providers also must notify the public about the right to file a discrimination complaint.

DFCS Notice of ADA/Section 504 Rights Notices regarding the rights of people with disabilities and provisions of services are available on Gateway, in all applications and renewal forms for SNAP, TANF, and Medicaid programs, in all county offices, and online at: <https://dhs.georgia.gov/forms-notices> and <https://dfcs.georgia.gov/adasection-504-and-civil-rights>.

DFCS and its Providers must post signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility must be used at each accessible entrance of a facility.

Notices must be provided in alternative formats upon request. Copies of the ADA/Section 504 Notice of Rights and Request for Reasonable Modification and Communication Assistance forms must be available in waiting rooms. Staff must read the Notice of ADA/Section 504 Rights to individuals upon request or as necessary to ensure understanding and to complete the Request for Reasonable Modifications and Communication Assistance form. More information can be found online at: <https://dfcs.georgia.gov/adasection-504-and-civil-rights>.

Notices regarding right to file a discrimination complaint must be posted in accordance with federal agency directives. Reference the DFCS Civil Rights Compliance Policy in ODIS. The joint U.S. Department of Agriculture (“USDA”), U.S. Department of Health and Human Services’ Notice of Nondiscrimination (“HHS”) must be posted in accordance with FNS Instruction 113-1 and subsequent FNS directives. It is located online at <https://dfcs.georgia.gov/adasection-504-and-civil-rights>.

The appropriate “And Justice for All” poster must be prominently displayed in all offices where there is a USDA presence and where it may be read by customers. Please note that institutions participating in or administering USDA programs, such as SNAP, The Emergency Food Assistance Program (TEFAP), and the Commodity Supplemental Food Program (CSFP) are required to display the appropriate “And Justice for All” poster in their facilities where it can be viewed by customers. All “And Justice for All” posters must be displayed in a specific size: 11” width x 17” height. Information can be found online

at: <https://www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations>.
Contact the appropriate program director to obtain a hardcopy of the AJFA poster.

PROCEDURES FOR PROCESSING CUSTOMER REQUESTS FOR REASONABLE MODIFICATION(S)

Reasonable modifications afford an individual with a disability an equal opportunity to participate in all DFCS programs and receive all benefits and services for which that individual is otherwise eligible. Providing a reasonable modification may take many forms including, but not limited to, policy or procedural modifications, deferral from certain activities, and extensions of deadlines. Examples of making reasonable modifications at the administrative level include making existing facilities readily accessible to and usable by an individual with a disability and acquiring or modifying equipment.

With reasonable modifications, a person with a disability can participate fully in programs, services, and activities. Reasonable modifications are fact-specific and tailored to the individual circumstances of the person with a disability. Assessing possible reasonable modifications is a collaborative, interactive process. The starting point should always be, if possible, the customer's preferred modification. The customer's preference should provide the context for determining what a reasonable modification might be. When processing a request for reasonable modification or communication assistance, staff must not request or require verification of a customer's or companion's disability. While staff cannot ask customers to identify their disability, staff may ask what major life activity is substantially impaired or limited by their disability.

Once a customer requests a reasonable modification, eligibility workers are required to document the following in Gateway: The date(s) and type(s) of reasonable modifications requested by the customer, the date a request for reasonable modification was granted or denied, the reason the request for reasonable modification was denied, if applicable, and the specific approved or denied reasonable modification(s).

If the customer expresses a need for assistance related to a disability, expresses difficulty completing any task in the application/renewal process, and/or has a disability that is documented in Gateway, eligibility workers are required to explain tasks to the customer. *Workers must complete in the application and/or renewal process, inquire whether the customer experiences difficulty completing any task or may need assistance completing any task, the reason(s) for the difficulty and/or need for assistance and possible reasonable modifications with the customer.

When a written request for reasonable modification is mailed, faxed, emailed, or hand-delivered to a local county DFCS office or other appropriate staff, that staff must forward the request to an eligibility worker for processing. Eligibility workers are required to review the customer's case file in Gateway prior to or during every interaction with the customer and before taking any action on the customer's case. Current processes for documenting in Gateway for reasonable modifications can be found in the Gateway Training.

Staff is required to provide reasonable modifications to qualified individuals with a disability at every point of interaction with customers in the OFI eligibility process, whether in person, on-line, by telephone, or by mail, including inquiries about applications for benefits. Staff must assess requests for reasonable modifications as part of a collaborate, interactive process, applying a fact-specific, individualized analysis of the person's circumstances and the modification requested to assist the individual in access OFI programs and provide the necessary information to determine program eligibility. Decisions concerning a customer's request for a reasonable modification may incorporate the following factors, assessed cooperatively with the customer: (1) how the customer's disability impairs access to OFI programs; (2) how the disability limits the customer's ability to comply with program eligibility procedures; (3) reasonable modification options that address those limitations; and (4) the effectiveness and feasibility of the proposed options. Provisions of reasonable modifications are based on a fact-specific inquiry that is to be assessed on a case-by-case basis and may be limited by regulation.

All eligibility workers have the responsibility and authority to offer, grant, and implement necessary reasonable modifications to customers with disabilities. DFCS staff do not have authority to grant a request for reasonable modification to program policy rules, such as income verification. Common examples of reasonable modifications, include, but are not limited to:

- Assistance gathering documents required by the program to support initial and ongoing eligibility for benefits;
- Flexible appointments and training requirements including scheduling appointments, so they do not conflict with customer's medical appointments, rehabilitation, or therapy;
- Allowing customers to reschedule appointments, potentially multiple times, when a disability prevents attendance;
- Giving a customer more time to submit documents or complete other tasks;
- Reading and explaining notices, rights and responsibilities forms, and other program materials to the customer, repeatedly, if necessary, to help ensure understanding;
- Modifying work activities unless not authorized by program policy and regulations
- Providing access for persons with disabilities who rely on service animals, wheelchairs, mobility aids or Other Power-Driven Mobility Devices (OPMD).

HOW TO REQUEST REASONABLE MODIFICATION(S)

- Individuals with disabilities may require reasonable modifications to assist them with accessing DFCS programs and services, complying with program requirements, avoiding potential sanctions for noncompliance. All customers have the right to request a reasonable modification. Customers may direct a request for a reasonable modification to any appropriate DFCS staff member at any time. Customers may make a request for reasonable modifications orally or in any written form. Staff who do not have access to Gateway, such as receptionists, should forward the requests to an eligibility worker for processing.

- They may also complete the Reasonable Modification and Communication Assistance Request Form (Form 101). Customers are not required to use the form to make a request for reasonable modifications. Customers may obtain the reasonable modification request form in customer waiting rooms in each county DFCS office and RSM location. The form is also available online at <https://dhs.georgia.gov/forms-notices> and <https://dfcs.georgia.gov/adasection-504-and-civil-rights>. DFCS Office of Family Independence (OFI) eligibility staff are required to document any oral request or written requests for reasonable modifications in the customer's Gateway case file.
- Staff must provide the Reasonable Modification and Communication Assistance Request Form ("Form 101") to any customer upon request and may provide this form to any customer if a staff member believes they may require a reasonable modification. Forms are to be made available to customers in alternate formats as requested (i.e. large print or braille). Staff are required to assist customers with the completion of Form 101, if necessary. If a customer discloses a disability, staff members will inform the customer of his/her right to make a request for reasonable modifications and will be provided examples of reasonable modifications.

DENIAL OF REQUEST FOR REASONABLE MODIFICATION(S)

Only the DFCS Division Director and his/her designee has the authority to deny, in whole or in part, reasonable modification requests or otherwise refuse requests for reasonable modifications. As of September 16, 2019, DFCS Division Director Tom Rawlings designated DFCS' State Civil Rights, ADA/Section 504 Coordinator as having the authority to deny DFCS customer requests for reasonable modifications.

DFCS and its Providers are not required to provide a reasonable modification that would fundamentally alter the program, service, or activity or would result in an undue financial or administrative burden. The determination that undue burdens would result must be based on all resources available for use by DFCS or its Providers. If the modification requested would cause undue financial burden on the program or activity to the level that it would make continued operation of the program unfeasible, the modification need not be provided. However, denying a modification(s) under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services. DFCS and its Providers still must provide services to the person with a disability as appropriate to the maximum extent possible.

If eligibility workers are unsure about whether a reasonable modification can or should be provided, they must consult with a supervisor at the time the request for reasonable modification is received or as soon as reasonably possible thereafter. If a supervisor agrees that a reasonable modification can and should be provided, the eligibility worker is required to provide the requested modification to the customer. However, if the supervisor recommends that the request for reasonable modification be denied, the

supervisor must submit the DFCS Reasonable Modifications (RM) and Communication Assistance (CA) Tracking Form and any supporting documentation with recommendations for review to the District ADA/Section 504 Coordinator.

The District ADA/Section 504 Coordinator reviews the supervisor's denial request and forwards Form 102 to the State DFCS ADA/Section 504 Coordinator. The State DFCS ADA/Section 504 Coordinator is responsible for making the final agency decision on complaints involving requests for reasonable modification, after consultation with the appropriate DFCS OFI Program Unit Manager and, when necessary, the DFCS Director or head of OFI. After the State DFCS ADA/Section 504 Coordinator makes the final agency decision on the request for reasonable modifications, the DFCS District ADA/Section 504 Coordinator is responsible for drafting and providing a written decision to the customer, after consultation with the State DFCS ADA/Section 504 Coordinator.

PROCEDURES FOR EQUALLY EFFECTIVE COMMUNICATION

DFCS and its Providers must ensure communications with applicants, participants, members of the public and companions with disabilities are as effective as communications with other. In some situations, DFCS may communicate with a customer's companion with disability. A companion is any family member, friend, or associate of a person seeking or receiving an entity's goods or services who is an appropriate person with whom the entity should communicate.

DFCS and its Providers must provide appropriate auxiliary aids and services when necessary to ensure effective communication with individuals with disabilities. This includes an obligation to provide effective communication to companions with disabilities. These aids and services must be provided at no cost to the customer and in a timely manner that protects the privacy and independence of customers with a disability.

Auxiliary aids and services refer to the ways to communicate with people who have communication disabilities (e.g., for DFCS customers with hearing, vision, and speech disabilities). Auxiliary aids and services include, but are not limited to: qualified sign language interpreters, telephone handset amplifiers, assistive listening devices, closed caption decoders, real time captioning, TTY/TTD relay services for deaf and hard-of-hearing, screen reader software, Braille Embossers, text to Braille converter, large print materials, alternative keyboards for individual who are blind and have low vision.

Examples of auxiliary aids and services for people who are blind have vision loss, or are deaf-blind might be:

- Providing a qualified reader, information in large print, Braille, or electronically for use with a computer screen-reading program, or an audio recording of printed information.

Examples of auxiliary aids and services for people who are deaf, have hearing loss, or are deaf-blind might be:

- Providing a qualified note taker, a qualified sign language interpreter, oral interpreter, cued-speech interpreter, or tactile interpreter; real-time captioning; or written materials.

Examples of auxiliary aids and services for people who have speech disabilities might include:

- Providing a qualified speech-to-speech transliterator (a person trained to recognize unclear speech and repeat it clearly), especially if the person will be speaking at length, or just taking more time to communicate with someone who uses a communication board.

Video remote interpreting (VRI) services also provide qualified interpreters. A public entity that chooses to provide qualified interpreters via VRI services must ensure that the computer or other device meets the technological requirements of the ADA at 28 CFR 35.160(d).

Eligibility workers are required to provide application and renewal forms, system-generated individual and household communications and notices of decision (i.e. approvals, changes, terminations, and denials) and renewal notices in large print, Braille, audio format, or data format to qualified individuals with a disability upon request and as required by law.

The key to communicating effectively is to consider the nature, length, complexity, and context of the communication and the person's normal method(s) of communication. This may also involve verifying that the communication is understood, using multiple methods of explanation to the individual.

With respect to communication disabilities, state or local government agencies must give primary consideration to the person's choice of auxiliary aid and service, unless it can demonstrate that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration or a financial or administrative undue burden. [28 C.F.R. § 35.160(b)(2)]. If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the public entity still has an obligation to provide an alternative aid or service that provides effective communication if one is available. The decision that a particular aid or service would result in an undue burden or fundamental alteration must be made by the head of DFCS or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion.

Public accommodations (e.g. private community partner agencies) that provide DFCS services are *encouraged* to consult with the person with a disability to discuss what aid or service is appropriate. The goal is to provide an aid or service that will be effective,

given the nature of what is being communicated and the person's method of communicating.

When an eligibility worker or other staff becomes aware that a customer has a disability that substantially limits the customer's ability to see, hear or speak, the eligibility worker or staff must inquire as to the customer's potential need for auxiliary aids and services. If a customer expresses a need for assistance related to a disability, or if the customer has a disability that is documented in Gateway, eligibility workers who have access to Gateway are required to discuss the possible need for auxiliary aids and services with the customer using the Gateway written prompts. If a customer indicates that he or she does not wish to disclose or to discuss their disability, staff will not make further inquiries on these subjects.

Individuals with disabilities may request an auxiliary aid or service by completing the Reasonable Modification and Communication Assistance Request Form (Form 101). Please refer to the Reasonable Modifications Section above for procedures handling documenting requests for assistance in Gateway.

DFCS and its Providers must assure that any interpreter used to communicate with a DFCS customer with a disability is qualified to do so. This includes qualified interpreters (i.e. American Sign Language, signed exact English interpreters, cued speech interpreters, oral interpreters, tactile interpreters, and Computer Assisted Real-time Transcription (CART)]. When a customer who is deaf or hard-of-hearing notifies staff that the interpreter provided is not qualified to interpret for that customer, either DFCS or its Provider staff must arrange for a qualified interpreter service or other appropriate auxiliary aid and service, as required by law.

DFCS and Provider staff are prohibited from requiring a customer to bring a person to serve as the interpreter. Staff will not rely on an adult accompanying a customer with a disability to interpret or facilitate communications except (a) in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available, or (b) where the customer with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

Staff will not rely on a minor child to interpret or facilitate communications with a customer, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.

WHEELCHAIRS, MOBILITY AIDS AND OTHER POWER-DRIVEN MOBILITY DEVICES

DFCS and its Providers must allow individuals with disabilities who use wheelchairs, mobility aids or other power-driven mobility devices (OPDMD) into all areas where the public is allowed to go, unless the entity can demonstrate that the particular type of device

cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular class of devices or how individuals will operate them.

Staff must consider these factors in determining whether to permit OPDMDs on their premises:

- the type, size, weight, dimensions, and speed of the device;
- the volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- the facility's design and operational characteristics, such as its square footage, whether it is indoors or outdoors, the placement of stationary equipment, devices, or furniture, and whether it has storage space for the device if requested by the individual;
- whether legitimate safety standards can be established to permit the safe operation of the device; and
whether the use of the device creates a substantial risk of serious harm to the environment or natural or cultural resources or poses a conflict with Federal land management laws and regulations.

Communicate clearly to the public any OPDMD not permitted in an area where DFCS programs, services and activities are offered. Staff may not ask individuals using such devices about their disability but may ask for a credible assurance that the device is required because of a disability. If the person presents a valid, State-issued disability parking placard or card or a State-issued proof of disability, that must be accepted as credible assurance on its face. If the person does not have this documentation, but states verbally that the device is being used because of a mobility disability, that also must be accepted as credible assurance, unless the person is observed doing something that contradicts the assurance.

SERVICE ANIMALS

Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for a person with a disability. DFCS and its Providers must provide individuals with disabilities with service animals an equal opportunity to participate in DFCS programs, services, and activities.

Staff may ask two questions in relation to a service animal:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

Service animals must be allowed in all areas of a facility where the public is allowed except where the dog's presence would create a legitimate safety risk or would fundamentally alter the nature of a public entity's services. Service animals may be excluded only if 1) the dog is out of control and the handler cannot or does not regain

control; or 2) the dog is not housebroken. If a service animal is excluded, staff must allow individuals to enter the facility without the service animal.

A service animal must have a harness, leash or other tether, unless the handler is unable to use a tether because of a disability or the use of a tether would interfere with the service animal's ability to safely perform its work or tasks. In these cases, the service animal must be under the handler's control through voice commands, hand signals, or other effective means. If a service animal is excluded, the individual with a disability must still be offered the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

DFCS employees may ask an individual with a disability to remove a service animal if the animal is not housebroken or is out of control and the individual is not able to control it. If DFCS properly excludes a service animal, DFCS cannot unlawfully exclude the customer from accessing its services, programs, or activities and must give the individual with a disability the opportunity to participate in programs, services, or activities without the service animal being present.

Staff may not require individuals with disabilities provide documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry. Service animals are not required to wear service animal vests or patches, or to use a specific type of harness.

Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the building. But, as with any reasonable modification, determination on how to address allegations involving allergies or other direct threat or safety concerns is done on a case-by-case basis.

MINIATURE HORSES

Although not service animals, miniature horses have similar protections under the ADA. DFCS and its Providers must permit access where reasonable for miniature horses that are individually trained to do work or perform tasks for individuals with disabilities. Federal regulations set out four assessment factors to assist staff in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

ACCESS TO WEBSITES AND ONLINE SYSTEMS

DFCS and its Providers must ensure program websites and online systems are accessible to persons with disabilities. DFCS and its Providers should ensure that in-house staff and contractors responsible for web page and content development are properly trained. DFCS and its Providers must provide a way for visitors to request accessible information or services to the extent required by law. Information for web developers interested in making their web pages as accessible as possible, including the current version of the **Web Content Accessibility Guidelines** (and associated checklists), can be found at www.w3c.org/WAI/Resources.

PHYSICAL ACCESS TO BUILDINGS AND FACILITIES

DFCS and its Providers must ensure individuals with disabilities are not excluded from programs and services because facilities are unusable or inaccessible to them. These entities must ensure that individuals with disabilities have access to programs and services under the same terms and conditions as individuals without disabilities. These entities must abide by the ADA Standards for Accessible Design.

SAFETY

DFCS and its Providers may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, the public entity must ensure that its safety requirements are based on real risks, not on speculation, stereotypes, or generalizations about individuals with disabilities.

DIRECT THREAT

Direct Threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in 28 C.F.R. § 35.139 (Title II) and 28 C.F.R. § 36.208 (Title III).

The ADA does not require DFCS or its Providers to permit an individual to participate in or benefit from the services, programs, or activities of that DFCS when that individual poses a direct threat to the health or safety of others (not to self). In determining whether an individual poses a direct threat to the health or safety of others, DFCS and its Providers must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

FUNDAMENTAL ALTERATION/UNDUE BURDEN

The State agency, local agency, subrecipients and contractors are not required to modify its policies, practices, or procedures if the entity can demonstrate that making the modification would fundamentally alter the nature of the service, program, or activity. If the modification requested would cause undue financial burden on the program or activity to the level that it would make continued operation of the program unfeasible, the modification need not be provided. However, denying a modification(s) under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services.

The decision that a particular aid or service would result in an undue burden or fundamental alteration must be made by [add high level official, no lower than a Department head and contact information] and must be accompanied by a written statement of the reasons for reaching that conclusion. The State agency, local agency, sub recipients and contractors still must provide services to the maximum extent possible.

Staff Training

For Civil Rights training requirements, please refer to the DFCS Civil Rights Compliance Policy.

COMPLAINTS PROCESSING

All DFCS customers and the public have a right to file a complaint of discrimination on the basis race, color, national origin, disability, age, sex and in some cases religion or political beliefs, or for reprisal or retaliation for engaging in prior civil rights activity. For more information, reference the DFCS Civil Rights and ADA/Section 504 Complaint Process and the DFCS Civil Rights, ADA/Section 504 Complaint Form.

ATTACHMENTS

- Attachment 1: DFCS Civil Rights Compliance Policy
- Attachment 2: DFCS ADA/Section 504 Coordinators
- Attachment 3: DFCS ADA/Section 504 Coordinator Duties
- Attachment 4: Reasonable Modification and Communication Assistance Request Form (101) English
- Attachment 5: Reasonable Modification and Communication Assistance Request Form (101) Spanish
- Attachment 6: Reasonable Modification and Communication Assistance Request Form (101) English Large Print
- Attachment 7: Reasonable Modification and Communication Assistance Request Form (101) Spanish Large Print
- Attachment 8: Reasonable Modification and Communication Assistance Request Tracking Form (102)

- Attachment 9: ADA/RM Form 101 and 102 Instructions
- Attachment 10: ADA RM Form 101 and 102 Manual Tracking Log 1_24_20
- Attachment 11: US Department of Justice (DOJ), ADA Requirements: Effective Communication
- Attachment 12: DOJ ADA Title II Primer
- Attachment 13: DOJ Accessibility of State and Local Government Websites to People with Disabilities
- Attachment 14: DFCS Civil Rights and ADA/Section 504 Complaint Process
- Attachment 15: DFCS Civil Rights, ADA/Section 504 Complaint Form