

# Division of Family and Children Services

***CSBG***


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# 100 Program Overview

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Program Overview	
	Chapter:	100	Effective Date: October 2020
	Policy Number:	100	Previous Policy Number(s):

## Community Service Block Grants (CSBG)

The State of Georgia Department of Human Services, Division of Family and Children Services, hereafter referred to as the State Department, CSBG funding supports projects that lessen poverty in communities, address the needs of low-income individuals including the homeless and the elderly and provide services and activities addressing employment, education, better use of available income, housing, nutrition, emergency services and health.

With the support of CSBG funding, eligible entities work together to achieve increased self-sufficiency, improved living conditions, ownership and pride in the communities served and stronger family and support systems goals for low-income individuals.

### Authorization

The Community Services Block Grant Program is authorized by the Omnibus Reconciliation Act of 1981, P.L. 97-35, the Community Service Block Grant Act, as amended (in 1998 by the “Coates Human Services Reauthorization Act of 1998, P.L. 105-285).

### Background

The Official Code of Georgia Annotated, 49-8-4 (O.C.G.A) designates the Department of Human Services, as the lead state agency for the administration of the Community Services Block Grant.

## Requirements

The State Department must comply with federal statutes and regulations in administering the Community Services Block Grant program through Community Action Agencies and county governments (hereafter referred to as eligible entities).

The eligible entities must comply with all policies and procedures found in the CSBG Manual and the State Department contract.

## Basic Considerations

The purpose of the Community Services Block Grant funds is to allow states to provide a wide range of services to help ameliorate the causes and conditions of poverty. Funds are distributed to all twenty-four (24) eligible entities based on a formula adopted by the State Department and a com-

mittee of representatives from eligible entities. Assistance is provided for individuals at one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines.

Eligible entities must submit a Community Action Plan at least annually, prior to the beginning of the grant program. Programs or services administered by each entity must be used to support activities and services designed to assist low-income families and individuals to become self-sufficient. Each eligible entity will conduct a Needs Assessment in their service delivery area to determine the needs of the community. Programs administered by the local agencies should be guided by the results of the Needs Assessment.

## **ROMA and National Goals**

Results Oriented Management and Accountability, or ROMA, is a set of principles designed to preserve the anti-poverty focus of community action and to promote greater effectiveness among state and local agencies receiving CSBG funds. Programs or services administered must address at least one (1) of the six (6) national goals and each program administered should have measurable results.

ROMA was created in 1994 by an ongoing task force of Federal, state, and local community action officials – the Monitoring and Assessment Task Force (MATF). Based upon principles contained in the Government Performance and Results Act of 1993, ROMA provides a framework for continuous growth and improvement among more than 1000 local community action agencies and a basis for state leadership and assistance toward those ends.

Currently the Community Services Network has been guided by three broad anti-poverty goals established by the MATF:

**Goal 1:** Individuals and families with low income are stable and achieve economic security.

**Goal 2:** Communities where people with low incomes live are healthy and offer economic opportunity.

**Goal 3:** People with low incomes are engaged and active in building opportunities in communities.

To accomplish these goals, local community action agencies have been encouraged to undertake a number of ROMA implementation actions that focus on results-oriented management and results-oriented accountability:

## **Results-Oriented Management**

- Assess poverty needs and conditions within the community;
- Define a clear agency anti-poverty mission for community action and a strategy to address those needs, both immediate and longer term, in the context of existing resources and opportunities in the community;
- Identify specific improvements, or results, to be achieved among low-income people and the community; and
- Organize and implement programs, services, and activities, such as advocacy, within the agency and among “partnering” organizations, to achieve anticipated results.

## Results-Oriented Accountability

- Develop and implement strategies to measure and record improvements in the condition of low-income people and the communities in which they live that result from community action intervention;
- Use information about outcomes, or results, among agency tripartite boards and staff to determine the overall effectiveness, inform annual and long-range planning, support agency advocacy, funding, and community partnership activities.

(See NASCSP website for Instructions on completing Outcome Measures at [www.nascsp.org](http://www.nascsp.org)).

## National Performance Indicators

The National Performance Indicators (NPIs) collect data on ALL of the agency's activities (not just CSBG-funded activities). The NPIs require eligible entities to think about the context in which the agency is providing services in order to determine where various outcomes should be reported. Eligible entities should evaluate programs or services to identify whether or not the service is providing the intended outcome and may be used to measure program effectiveness.

# 200 Board Governance

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Board Governance	
	Chapter:	200	Effective Date: October 2020
	Policy Number:	200	Previous Policy Number(s):

## Overview and Requirements

The Boards of Directors plays a unique and important role in the life of an Eligible Entity. While staff members transition, founding directors retire, and programs change, the board offers consistency in purpose, intent, and responsibility. The governing board acts as a body, not as individuals, and its members are bound by the Duties of Care, Loyalty, and Obedience, bearing legal liability for their individual actions as well as those of the corporation. Governing boards that are functional and active are important for all eligible entities.

Federal legislation requires the establishment of a tripartite board. Sections 676B of the Community Services Block Grant Reauthorization Act of 1998 requires that, as a condition of designation, private nonprofit entities and public organization administer their CSBG program through boards that fully participate in the development, planning, implementation and evaluation of the programs serving low-income communities.

## Board Composition for Community Action Agencies

### Basic Consideration

The Community Services Block Grant Law [Sec 676B(a)(2)] requires that each Community Action Agency or other private non-profit organization have a Board that is constituted as follows:

- One-third (1/3) of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than one-third (1/3) of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such one-third requirement.
- Not fewer than one-third (1/3) of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and each representative of low-income individuals and families selected to represent a specific neighborhood within a community resides in the neighborhood represented by the member.
- The remaining members of the board are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

## **Board Composition for Public Organizations**

The Community Services Block Grant Law [Sec 676B(a)(2)] requires that public organizations, such as county governments, utilize State-specified mechanisms other than tripartite boards to administer the CSBG program. Each public organization must have an advisory board that is constituted as follows:

- Not fewer than one-third (1/3) of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and
- each representative of low-income individuals and families selected to represent a specific neighborhood within a community resides in the neighborhood represented by the member.
- low-income individuals must actively participate in the development, planning, implementation and evaluation of funded programs.

## **Board Responsibilities**

The Board of Directors for any 501(c)3 nonprofit agency has fiduciary responsibility for the overall operation of the agency. CSBG eligible entities must have a tripartite governing board that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities.

The governing boards are required to approve the following at a minimum:

- The CSBG Community Action Plan that describes the programs/services and expenditures for the fiscal year.
- The purchase of any equipment costing \$5,000 or more, after the annual proposal has been approved.
- Contract amendments during the contract period.
- Subcontracts in amounts of \$5,000 or more, except for audit services, janitorial services, and maintenance or pest control.
- Any budget revisions exceeding fifteen percent (15%) of a line item.
- Personnel Policies and Procedures for CSBG personnel changes.

**Board approval for any of the above items must be confirmed in the minutes of the Board's meetings.**

## **Advisory Board Responsibilities**

CSBG eligible entities that are public organizations, such as county or local governments, must have an advisory board that fully participates in development, planning, implementation and evaluation of the program.

- The advisory board may or may not be the county commission.
- Appointed advisory boards make recommendations to the administering agent (i.e., county government, designated agency or individual).



- The administering agency is responsible for approval of all aspects of CSBG program administration.


## **Board Training**

Board training is an important activity for the governing and advisory board. Training helps in to set standards against which the Board can evaluate its own performance. It will increase the understanding of appropriate execution of board roles and responsibilities and it is an effective tool in facilitating skill development for boards to perform their roles and responsibilities.

Training should cover at a minimum the areas of planning, fiscal oversight, community partnerships, program evaluation, and human resources.

The State Department supports board training by providing funds to the Georgia Community Action Association. State Department staff will assist in facilitating board training if requested by the agency executive director and Board Chair.

# 300 Community Needs Assessment

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Community Needs Assessment	
	Chapter:	300	Effective Date: October 2020
	Policy Number:	300	Previous Policy Number(s):

## Overview and Requirements

The Community Needs Assessment offers a focus on local conditions, analyzing the economic opportunities and barriers for all residents who are at risk of remaining or becoming economically insecure. It identifies existing and potential resources to expand opportunities. It prepares leadership of the eligible entity to plan a multi-year strategy. All CSBG eligible entities are expected to choose strategic goals and follow a clear plan to achieve desired results. It is essential to explain how the priorities in an agency's strategic plan meet the proven needs in the community.

To comply with the Community Service Block Grant (CSBG) Act, Public Law 105- 285, 42 U.S.C. 9908 (a)(11), CSBG eligible entities must complete a Community Needs Assessment. The State Department is required to secure from each eligible entity, as a condition of funding, a Plan that includes a needs assessment for the communities served. Each eligible entity is required to submit a current comprehensive Community Needs Assessment annually with the Community Action Plan (CAP) in order to be in compliance with the fiscal and administrative requirements of the CSBG program.

A Community Needs Assessment is a systematic process of obtaining and analyzing information to determine the current status and service needs of a community. The process used must be flexible enough to respond to the continually changing socioeconomic and demographic environments.

A decision must be made to determine who will conduct the Assessment; what information will be collected; what methodology will be used to collect the information and how the information will be used.

## Basic Consideration

A Community Needs Assessment:

- Must be conducted every three (3) years for the specific community that is served by the contracted agency.
- Must be signed by the agency's Board Chair and Executive Director
- Must be submitted to the State Department with the Community Action Plan.
- An assessment summary that outlines current needs, new or projected needs, and unmet needs should also accompany the Plan.
- May be coordinated with needs assessments conducted for other programs within the eligible entity.

- May focus on a specific program or target population in some instances.

## **Units of Needs Assessments**

After the data is collected, thoroughly examined and interpreted, the results should be used as a starting point for establishing priority of services and planning of resources. In addition to the level of priority of need, the information can assist eligible entities to:


- Manage programs more effectively
- Refine or eliminate existing programs
- Prevent duplication of programs
- Provide justification to the board and others for decisions and actions
- Provide broader support and acceptance by sponsors and employees
- Determine the need for training and professional development

## **Components of a Community Needs Assessment**

At a minimum, the following items should be included as components of an Assessment:

- Demographic make-up of eligible families including their number, geographic location, and racial/ethnic composition
- Other social service agencies in the geographic area and the constituents they serve
- Data regarding the health, nutrition, and social service needs of the communities as defined by community institutions
- Availability and accessibility of community resources that can address the needs of eligible families
- An analysis of the data collected to document a need for the proposed service(s) to use CBSSG funds

# 400 Community Action Plan

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Community Action Plan	
	Chapter:	400	Effective Date: October 2020
	Policy Number:	400	Previous Policy Number(s):

All eligible entities are required to submit a Community Action Plan (CAP) that links all services to the National Goals. The CAP is the framework in which eligible entities address the problem of poverty situations in their community as identified in the current needs assessment. All CAPs are to be completed utilizing EasyTrak.

## Requirements

Programs offered should be directly related to the mission statement of the agency. Eligible entities must develop a CAP that outlines each of the services provided by the CSBG program. The CAP includes but is not limited to:

**Title of Program/Service** – The title name given to the program is chosen by the agency. Generally, the title name of the program reflects some aspect of the program category.

**Contract Period** – The contract period lists the beginning and end dates of the period covered by the plan. Most often the contract covers the 12 months of the federal fiscal year; however certain programs within the agency may not, i.e. youth summer camp programs. Additionally, the contract period for plans supported by discretionary funding may have different start and end dates.

**Program Category** – The program category best reflects the primary tenets of the program and is selected from the thirteen (13) CSBG statute service categories or “Other Negotiated Services”. Although “Other Negotiated Services” is rarely used, it was designed by the State Department to capture any program that does not fall into one of the thirteen CSBG service categories. Programs that fall into Other Negotiated Services must seek prior approval from the State Department prior to the submission of the CAP.

**Determination of Need** – This shows the degree of need for the program as identified in the current needs assessment. Multiple resources should be used to make the determination of need.

**Individuals to be Served Directly** – The number of units expected to be served is determined by the type of services provided, target population, contract period, program cost per unit, budget amount, etc. A unit may be an individual, household or community as appropriate.

**Objectives/Outcomes** – The outcomes are the objectives or expected results that the agency hopes to achieve by performing the services and activities of the program. Individual activities can have objectives and outcomes. Each service/activity should lead to an outcome and national performance indicator; however, a service/activity may be linked to multiple outcomes and national performance indicators.

**Program Description/Activities** – The program description is a comprehensive detailed narrative that clearly presents the services and activities offered. It includes specific terminology to describe processes used to deliver the service and activities. Each of the programs selected must address at least one (1) of the six (6) national ROMA goals.

**National CSBG Goals** – The three (3) national ROMA goals were designed to measure effectiveness and accountability for the expenditure of CSBG funds. ROMA goals measure results of programs and services at the local level. Each outcome is linked to a national ROMA goal.

**Outcome Measures** – Outcome measures are the national performance indicators and are linked to each major service/activity of the program as appropriate. National performance indicators may be called direct measure and/or outcome indicators.


**Measurement Tools** – Measurement tools are all methods of measurement used in collecting data for the program by service/activity.

**Funding Categories** – The funding categories to cover program costs are captured in the budget information section. The categories are:

- CSBG Allocation
- Non CSBG Funds Mobilized (Other Federal, State, Local, Private, In-kind)

**Non-CSBG Funds Leveraged** – CSBG funds are traditionally used to leverage other fund sources in order to eliminate or improve the conditions of poverty.

# 500 Fiscal Management

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Fiscal Management	
	Chapter:	500	Effective Date: October 2020
	Policy Number:	500	Previous Policy Number(s):

## Overview and Requirements

### Background

Eligible Entities contracting with the State of Georgia must operate responsibly and employ guiding principles of sound fiscal management practices and generally accepted accounting procedures as outlined in the applicable portions of the Office of Management and Budget (OMB) Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Additionally, agencies must adhere to any other local, state and/or federal laws for financial management.

The State Department is responsible for proper administration of the Community Services Block Grant. Ninety percent (90%) of the state appropriation is allocated to all eligible entities in the state.

The State Department administers the CSBG program through the following:

- CSBG Allocation Formula
- Cost Allocation Plan
- Audit Requirements
- Reimbursement Contract Requirements

## Use of Funds

### Basic Consideration

#### Limitation on the Use of Funds

Federal law prohibits the use of CSBG funds for:

- the purchase or improvement of land and;
- the purchase, construction or permanent improvement (other than low-cost residential weatherization or other energy-related minor home repairs) of any building or other facility leased or owned


## **Waiver on Limitation on the Use of Funds**

The law does provide for a waiver of the limitations by the Secretary of the Department of Health and Human Services (HHS).

Eligible entities may:

- submit a waiver request outlining the special circumstances to the State Department for consideration
- If approved, the State Department will submit the waiver request to HHS.

# 600 Types of Income

	Georgia Division of Family and Children Services CSBG Policy Manual		
	Policy Title:	Types of Income	
	Chapter:	600	Effective Date: October 2020
	Policy Number:	600	Previous Policy Number(s):

## Overview and Requirements

All income received from any source by the household is considered in determining eligibility. Income received is considered to be earned, unearned or disregarded.

**Earned** is income received from wages, salaries, commissions, or in exchange for services rendered.

**Unearned** is income received from any source other than those listed above.

**Disregarded** is income not counted in the eligibility determination process, as listed under Income Disregards in section 1005.

## Income Determination

Eligibility based on income is determined by resolving the following series of questions:

- What is the income limit for the household?
- What is the gross monthly household income?
- What is the source of the income?
- Is the income available to the household to meet its needs?
- Is the income included or excluded?
- How often is the income received?

## Income Limits

### Basic Consideration

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of the Department of Health and Human

Services (HHS) to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price Index for All Urban Consumers (CPI-U). The poverty guidelines are used as an eligibility criterion by the Community Services Block Grant program and a number of other Federal programs. The Department of Health and Human Services issues an annual update of the HHS Poverty Guidelines during January of each year to account for last calendar year's increase in prices as



measured by the Consumer Price Index.

The State Department shall enforce all guidelines prescribed by HHS, as updated through the CSBG program year. Updates to the CSBG poverty guideline shall be issued annually in memorandum by the Project Administrator. The Agency shall follow the method of income determination outlined in the memorandum in determining client eligibility, and shall maintain documentation of such determination in appropriate client files. **It is the responsibility of the eligible entity to ensure income limits are updated in EasyTrak annually.**


#### **1001.121 Re-certification of Income**

All clients must be re-certified for program income eligibility at least once during the program year; however it is recommended that re-certification be done every ninety (90) days. For programs that re-certify every 90 days, there may be instances where a client's current income will increase and exceed the income limit for the household while enrolled in the program. Clients who are enrolled in a short- or long-term program (non-emergency assistance) should not be excluded from continuing the program due to increased income during the program.

#### **Income of Household Members Under Age 18**

Income of household members under 18 years of age is not considered when determining eligibility for CSBG.

# 700 Client Eligibility

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Client Eligibility	
	Chapter:	700	Effective Date: October 2020
	Policy Number:	700	Previous Policy Number(s):

## Overview and Requirements

Complete, accurate and timely eligibility determination, application processing, payment of services, and referral for service is crucial for the CSBG Program. Eligible entities must complete an application for all persons who request assistance through the Community Services Block Grant Program. Approval for services is based on funds available.

All households have the right to apply for services and must be given the opportunity to make an application. Eligibility is determined for a household or a family unit. Eligibility, once established is effective for twelve (12) months, unless circumstances change which makes the person ineligible. Persons with Limited English Proficiency must have equal access to all benefits and services.

## Basic Consideration

### Basic Eligibility Criteria

The applicant must meet the basic eligibility criterion below:

- Households must be at or below 125% of the Federal Poverty Guidelines
- Household applicant must be a US citizen or a legally admitted alien with a social security card (see Citizenship).
- Households applying for assistance must reside in the geographic area serviced by the service provider

### Household Composition

The applicant must be a member of the household and must provide information on all individuals living in the household. The information must include:

- Name
- Relationship to the head of household
- Age/Date of Birth
- Social Security Number
- Income

## Categorically Eligible

A household will be considered categorically eligible if:

- The only income/resources in the household are SSI and/or , TANF, and/or Food Stamps
- The head of household receives Medicaid
- Adult members who receive specific services under the Workforce Investment Act (WIA) in a One-Stop Service Center when the service provider is a partner in the local WIA initiative and is housed at a One-Stop Center covered by the WIA legislation

At least seventy-five percent (75%) of those served under categorically eligibility must meet the CSBG eligibility guidelines. Service providers must verify this condition is met by a 10% sampling of categorical households during the specific program year. The results of the sampling must be available for review by the State Department staff.

In addition to being in the client's file, copies of Categorical Eligibility forms and/or client applications will be kept in a separate file by month of service. Files must be available to the State Department staff for review.

## Group Eligibility

Group eligibility can only be used in situations where a disaster has been declared by either the Georgia Emergency Management Agency (GEMA) or the Federal Emergency Management Agency (FEMA).

Agencies may determine eligibility on a group basis if it can reasonably conclude that substantially all members of the group of households affected in a specific area have income that does not exceed CSBG limits.

At least seventy-five percent (75%) of the members of the group must be CSBG eligible. In the event of a disaster, agencies must notify the State Department staff that they will be doing group eligibility in the affected areas.


Only emergency services should be provided for this type of service and services should not continue past thirty (30) days of each major occurrence. The activity will not duplicate benefits provided by another state or voluntary agency such as Red Cross.

A written application is not necessary; however, a log must be kept with the client's name, address, telephone number and declared income for each household requesting service. The agency must develop and maintain on file by disaster, the agency's plan for providing service during the disaster and for validating that at least seventy-five percent (75%) of the households served meet CSBG guidelines.

This should include verification of at least a ten percent (10%) random sampling within six (6) months of the activity. Group eligibility will be based on one hundred twenty-five percent (125%) of the poverty income guideline except when designated otherwise by the State Department.

The agency must also maintain a file by disaster of families served under the group eligibility provision.

# 800 Americans with Disabilities Act (ADA) and Section 504

	Georgia Division of Family and Children Services Civil Rights Policy Manual			
	Chapter:	3600	Effective Date:	December 4, 2020
	Policy Title:	Americans with Disabilities Act and Section 504 of the Rehabilitation Act	Reviewed:	April 1, 2024
			Next Review:	April 1, 2026
	Policy Number:	3601	Previous Policy Number(s):	FS Policy 3025, MA Policy 2020, TANF Policy 1004

## 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 nondiscrimination 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 (OFI). 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



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.



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 is 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 ADA/Section 504 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 the ADA/Section 504 Coordinator are listed in Attachment 1. The State DFCS ADA/Section 504 Coordinator must convene regular meetings with ADA/Section 504 Coordinators serving the DFCS local agencies, subrecipients and contractors that deliver services directly to the public. For a list of DFCS OFI District ADA Coordinators, please visit: [dfcs.georgia.gov/adasection-504-and-civil-rights](https://dfcs.georgia.gov/adasection-504-and-civil-rights).

## **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. The DFCS Notice of ADA/Section 504 Rights regarding the rights of people with disabilities and provisions of services are available on Gateway, in all applications and renewal forms for Supplemental Nutrition Assistance Program (SNAP) also known as “Food Stamps”, Temporary Assistance for Needy Families (TANF), and Medicaid programs, in all county offices, and online at: [dhs.georgia.gov/forms-notice](https://dhs.georgia.gov/forms-notice) and [dfcs.georgia.gov/adasection-504-and-civil-rights](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 Notice of ADA/Section 504 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: [dfcs.georgia.gov/adasection-504-and-civil-rights](https://dfcs.georgia.gov/adasection-504-and-civil-rights).

Notices regarding a right to file a discrimination complaint must be posted in accordance with federal agency directives. Refer to MAN 3700 ([DFCS Civil Rights Policy](#)) in PAMMS. The joint U.S. Department of Agriculture (“USDA”), U.S. Department of Health and Human Services’ (“HHS”) Joint Notice of Nondiscrimination must be posted in accordance with FNS Instruction 113-1 and subsequent FNS directives. It is located online at [dfcs.georgia.gov/adasection-504-and-civil-rights](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: [www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations](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 facili-



ties 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 are 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 collaborative, interactive process, applying a fact-specific, individualized analysis of the person's circumstances and the modification requested to assist the individual to 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 [dhs.georgia.gov/forms-notices](https://dhs.georgia.gov/forms-notices) and [dfcs.georgia.gov/adasection-504-and-civil-rights](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 or his/her designee has the authority to deny, in whole or in part, reasonable modification requests or otherwise refuse 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 the Reasonable Modification and Communication Assistance Request Tracking Form 102 (Please see Attachment 2) to the State DFCS ADA/Section 504 Coordinator. For instructions on how to complete Form 101 and/or Form 102, please see Attachment 3. The State DFCS ADA/Section 504 Coordinator will review the complaint involving request for reasonable modification and the denial request and will consult with the appropriate DFCS OFI Program Unit Manager and/or OFI Director. Only the DFCS Division Director or his/her designee has the authority to deny, in whole or in part, reasonable modification requests or otherwise refuse requests for reasonable modifications. After the final agency decision on the request for reasonable modifications is made, 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 others. In some situations, DFCS may communicate with a customer's companion with a 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., 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 individuals who are blind and have low vision.

Examples of auxiliary aids and services for people who are blind, have vision loss, or are DeafBlind 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 (non-language), 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 DFCS Division Director or his/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, it 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 to 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](http://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 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 the DFCS Division Director or his/her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The State agency, local agency, subrecipients 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 Policy](#) – MAN 3700.

## Complaints Processing

All DFCS customers and the public have a right to file a complaint of discrimination on the basis of 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 on the DFCS Nondiscrimination and Disability webpage at: [dfcs.georgia.gov/adasection-504-and-civil-rights](https://dfcs.georgia.gov/adasection-504-and-civil-rights).

## Attachments

Attachment 1: DFCS District and State ADA/Section 504 Coordinator Duties

Attachment 2: Reasonable Modification and Communication Assistance Request Tracking Form (102)

Attachment 3: ADA/RM Form 101 and 102 Instructions


Attachment 4: ADA RM Form 101 and 102 County Tracking Log 1\_24\_20

Attachment 5: US Department of Justice (DOJ), ADA Requirements: Effective Communication

Attachment 6: DOJ ADA Title II Primer

Attachment 7: DOJ Accessibility of State and Local Government Websites to People with Disabilities

# 900 Fair Hearing

	Georgia Division of Family and Children Services		
	CSBG Policy Manual		
	Policy Title:	Fair Hearing	
	Chapter:	900	Effective Date: October 2023
	Policy Number:	900	Previous Policy Number(s):

## Requirements

All applicants/clients shall receive fair and equitable treatment and may request a fair hearing for the following reasons:

- Application for assistance is denied
- Application is not acted upon within a reasonable period of time
- Benefit level is less than applicant believes it should be

The State requires a due process hearing within the Department. The Office of State Administrative Hearing (OSAH) is responsible for the final decision of the hearing provision.

Community Action Agency must inform each applicant in writing of the following:

- Right to a fair hearing whenever any action affects his/her application/benefit.
- Right to be represented by an authorized representative such as legal counsel, relative, friend or another spokesperson
- Right to represent oneself
- Right to timely and adequate notice of denial/benefit change

## Basic Considerations

A request for a hearing is a clear expression, made verbally or in writing by an applicant, recipient, or his/her protective payee to the effect that he or she wants the opportunity to present their case to a higher authority.

CSBG cases involving an alleged or suspected fraud are referred to the Office of Inspector General's Benefit Integrity and Recovery Unit (BIRU) for investigation. OIG is responsible for ensuring the appropriate adjudication of these cases either through administrative disqualification hearings or referrals for prosecution.

## Fair Hearing Request

- Is defined as a clear written or oral expression by the applicant or applicant's authorized representative of the desire to appear before a higher authority.

- The individual must request a hearing within thirty (30) days of notification of the decision with which s/he disagrees (42 C.F.R. § 431.221(d)). In the event an oral request is made, the individual must submit a written request within fifteen (15) days of the original request. The individuals' freedom to request a fair hearing is a right guaranteed to ensure due process.
- All fair hearings shall be administered by the Office of State Administrative Hearings (OSAH) Administrative Law Judge (ALJ). OSAH is responsible for scheduling hearings and notifying the parties (the Petitioner and DHS/DFCS) of the date, time, and location of the hearing. An Administrative Law Judge (ALJ) from OSAH conducts hearings.
- DFCS is prohibited from disclosing Personally Identifiable Information (PII) or Protected Health Information (PHI) to unauthorized individuals. Therefore, DFCS will not disclose, discuss, or allow access to the applicant's or recipient's PII or PHI without authorization. DFCS processes hearing requests that are submitted on behalf of an applicant or recipient when DFCS is provided valid legal authorization.
- A qualified interpreter must be provided to assist customers who have limited English proficiency or who request an interpreter as a form of communication assistance due to a disability. Hearing procedures must be explained in the customer's preferred language.

## Processing a Fair Hearing Request

Follow the steps below when an applicant, or his/her representative requests a fair hearing:

1. Within **three (3) business days** of eligible entity's receipt of a fair hearing request, review the record to determine the following:
  - Was the correct action taken? If not, correct the case and notify the applicant or recipient. S/he may choose to withdraw the request for a hearing.
  - Is the Applicant eligible on all points of eligibility other than the one at issue?
  - Is there enough information in the record to determine the correct amount of issuance? If not, the case worker will request the needed information and/or verification.
2. Within **three (3) business days** of State Office/DFCS's receipt of a fair hearing request, State Office/DFCS will attempt to discuss and resolve the complaint with the Applicant or the representative.
  - If a mutually satisfactory decision can be reached, the Applicant may withdraw the hearing request, **in writing**. Update the case based on the changes agreed upon during applicant/client contact.
  - If during applicant/client contact, a mutually satisfactory solution cannot be obtained or if unable to contact the applicant to discuss the complaint, electronically submit the following documents to OSAH within **five (5) business days** of State Office/DFCS receipt of fair hearing request:
    - original Form 118, Request for Hearing, or any written request for hearing presented by the applicant
    - Decision notice to the applicant or recipient of the action in dispute.
    - Original OSAH Form 1



Make sure that any available contact information, including phone numbers and an email

## The Fair Hearing

The individual may have an authorized representative such as legal counsel, a relative, friend or other spokesperson, or he/she may represent himself/herself at the hearing. The individual and/or the authorized representative should have an adequate opportunity to:

1. Examine the releasable contents of the application and all documents/records to be used by DFCS/Eligible Entity at the hearing at a reasonable time before the date of the hearing and/or at the hearing
2. Present the case and establish all pertinent facts and circumstances
3. Bring witnesses
4. Advance any arguments without undue interference; and
5. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

Once rendered, the decision of the ALJ becomes effective immediately. However, if an adverse decision is issued, the individual has a right to a further appeal to the DHS Commissioner through the DHS Appeals Reviewer. The DHS Appeals Reviewer shall notify the individual and his/her legal representative of the final decision and of the individual's right to pursue a separate legal action for judicial review outside of DHS.

## Requirements

OSAH has specific duties regarding the requirements for and conduct of a hearing, which are consistent with Georgia's Administrative Procedure Act, other applicable laws, regulations, and OSAH's Administrative Rules of Procedure found at 616-1-2-.01 *et seq.*

## Office of State Administrative Fair Hearings Responsibilities

OSAH initiates the following actions as needed:

- provides, at least **ten days** prior to the hearing, advance written notice to all involved parties in order to permit adequate preparation of the case.
- changes the time and/or location of the hearing upon its own motion or for good cause shown by the applicant, recipient, or protective payee.
- consolidating cases for which the sole issue is one of state and/or federal law, regulations, or policy.
- conducts a single hearing for multiple programs, if determined appropriate.
- determines numbers of persons who may attend the hearing.
- denies or dismisses a hearing request and grants continuances.
- utilizes only the facts and opinions that are evidence of record or which may be officially noticed and are, therefore, subject to the rights of objection, rebuttal, and/or cross examination by the involved parties.

- makes a decision within **ninety days** from the date of DFCS' receipt of the request for a fair hearing.
- mails the final hearing decision and related hearing notices to all involved parties.
- informs the Petitioner of his/her Superior Court appeal rights, if the Petitioner disagrees with the final decision.

Upon receipt of a hearing request, OSAH notifies the State Office/ DFCS and the applicant of the date and time of the hearing. The hearing may be conducted in the county at the DFCS or other government office, at the OSAH office in Atlanta or by telephone. State law prohibits the ALJ from providing legal advice to either party, including the state agency. As such, OSAH cannot assist the agency or the petitioning applicant or recipient in determining who should be present as witnesses at the hearing or what evidence is necessary to establish the case.

### **Rights and Responsibilities of Both Parties at the Fair Hearing**

The applicant, or the applicant's representative also has the right to do the following:

- present the case with or without the aid of a representative, including legal counsel, a relative, friend or other spokesperson.
- request assistance from the agency for transportation to/from the hearing.
- present arguments without undue interference.

The applicant, and the agency present its case by (list is not exhaustive):

- bringing and/or requesting the appearance of witnesses by subpoena (if needed),
- establishing all pertinent facts and circumstances,
- questioning and refuting any testimony or evidence, including the opportunity to question and cross-examine adverse witnesses.

The eligible entity is responsible for the following:

- ensure the presence at the hearing of staff members with direct knowledge of the facts in dispute
- ensure that all relevant agency records and copies are legible and available as evidence

### **The Final Hearing Decision**

The final hearing decision is issued within ninety days from the date the written request for a hearing is received by DFCS, except in the event of a postponement or continuance. Hearing decisions are based on the evidence presented at the hearing.

An ALJ shall have all the powers of the ultimate decision maker in the agency with respect to a contested case. Hearing decisions specify the reason for the decision, which includes findings of fact, conclusions of law, and a disposition of the case.

The following shall be a part of the hearing record:

- a. all rulings, orders, and notices issued by the court.

- b. all pleadings and motions.
- c. all recordings or transcripts of oral hearings or arguments.
- d. all written direct testimony.
- e. all other data, studies, reports, documentation, information, other written material of any kind, and physical evidence submitted in the proceedings.
- f. a statement of matters officially noticed.
- g. all proposed findings of fact, conclusions of law, and briefs; and
- h. the Decision issued in the matter