

	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL			
	Chapter:	(14) Resource Development	Effective Date:	TBD
	Policy Title:	Individualized Assessment (IA)		
Policy Number:	14.11 Individualized Assessment	Previous Policy #:	NA	

CODES/REFERENCES

Americans with Disabilities Act (ADA) of 1990
 Section 504 of the Rehabilitation Act of 1973
 U.S. Department of Justice regulations (28 C.F.R. Part 35)
 U.S. Department of Health and Human Services' regulations (45 C.F.R. Parts 80, 84, and 91)
 28 C.F.R. § 42.503
 U.S. Department of Health and Human Services, Office for Civil Rights and the Georgia Department of Human Services' Settlement Agreement, OCR Transaction Number: 09-102792

REQUIREMENTS

The Division of Family and Children Services (DFCS) shall:

1. Ensure that no qualified individual with a disability is excluded (by reason of such disability) from participation in or denied the benefits of its services, programs or activities (see [policy 1.5: Administration: Americans with Disabilities/Section 504 and Reasonable Modifications](#)).
2. Provide individuals with disabilities the opportunity to benefit from or participate in child welfare programs, services, and activities that are equal to those extended to individuals without disabilities.
3. Conduct an Individualized Assessment (IA) of any prospective or existing caregiver under the following circumstances:
 - a. An individual makes it known that they have a disability for which they are requesting an auxiliary aid or modification to the Foster Care or Adoption program;
 - b. An individual has a disability that the home assessor reasonably believes may interfere with the individual's ability to be approved or continue to participate in the Foster Care or Adoption program; or
 - c. The results of an Initial Family Evaluation or Re-evaluation will result in a denial based on a covered disability.

NOTE: The IA must be reviewed and approved by the DFCS Placement and Permanency Services Director (or his or her designee), prior to any decisions being finalized.
4. Screen a prospective caregiver out of the approval process or close the home of an existing caregiver if the individual poses a direct threat¹ to the health or safety of others.
5. Eliminate eligibility criteria for participation that screens out or tends to screen out a

¹ Direct threat is defined as a significant risk of harm to the health or safety of others that cannot be mitigated by reasonable modifications of policies, practices or procedures, or by the provision of auxiliary aids or services.

person with a disability or any class of individuals with disabilities from full and equal enjoyment in such participation. This does not apply to eligibility requirements that are necessary for the provision of the foster care/adoption program.

6. Provide an auxiliary aid or modify its policy, practice, or procedures if doing so will not fundamentally alter the nature of its foster care/adoption program or result in undue financial and administrative burdens.
7. Assess individuals with disabilities on a case-by-case basis consistent with facts and objective evidence.
8. Require Child Placing Agencies (CPAs) to create comparable procedures to ensure that their prospective and existing program participants are likewise protected under applicable disability laws and that all Reasonable Modification requests are documented.

PROCEDURES

The DFCS Caregiver Recruitment and Retention Specialist (CRRS)/CPA Resource Development (RD) Staff will:

1. Identify whether circumstances exist that warrant the completion of an Individualized Assessment (IA) to address the impact of a disability on the prospective or existing caregiver's ability to meet the Safety and Quality Standards and skills required to be approved as a foster or adoptive caregiver (See policy **14.1 Resource Development: Safety and Quality Standards**).
2. Conduct the Individualized Assessment (IA) using the "Individualized Assessment Tool for Prospective & Existing Foster Caregivers" (IA Tool) if a certifying medical official, as described in subsection d below, states that a prospective or existing caregiver has a disability that may affect his or her ability to care for a child:
 - a. Complete the IA Tool with the prospective or existing caregiver.
 - b. Gather information regarding the nature of an applicant or other household member's condition.
 - c. Assess whether the prospective or existing caregiver is a qualified individual with a disability (see Practice Guidance: Individualized Assessment).
 - d. Assess whether a qualified individual with a disability poses a direct threat to the health or safety of others. Direct threat is defined as a significant risk of harm to the health or safety of others that cannot be mitigated by reasonable modifications of policies, practices or procedures, or by the provision of auxiliary aids or services. Individuals deemed a 'direct threat' may be screened out or have their Family Evaluation denied solely based on this factor. When 'direct threat' is the justification for screening out an individual with a disability, the IA must include:
 - i. Current medical evidence or the best available objective evidence in determining:
 1. The nature, duration, and severity of the potential risk;
 2. The probability that potential injury will occur;
 3. Whether reasonable modification in policies, practices, or procedures will mitigate the risk. If not, explain why.
 - ii. The actual abilities and limitations of the prospective or existing caregiver.
 - e. Obtain the endorsement of a certifying medical official regarding whether the primary or secondary caregiver (as applicable) has any medical, cognitive, or other condition that may adversely impact their ability to care for a child or meet the DFCS Safety and Quality Standards (see policy **14.1: Resource Development: Safety and Quality Standards**).

- f. For each Safety and Quality Standard and other necessary skill, assess whether the individual can meet the requirements. The IA shall specifically address the impact of a disability on the caregiver's ability to meet the Safety and Quality Standards in accordance with policy **14.1 Resource Development: Safety and Quality Standards**; and exhibit the following skills required of all approved caregivers:
 - i. Understanding the Impact of Fostering /Adopting
 - ii. Teamwork and Communication
 - iii. Parenting Abused/Neglected Children
 - iv. Understanding Grief, Loss and Attachment
 - v. Understanding, Preventing and Managing Misbehavior
 - vi. Supporting Primary/Birth Family Relations
 - vii. Providing a Safe, Healthy and Nurturing Environment.
 - g. Determine if the potential risks can be mitigated by a reasonable modification in policies, practices or procedures, or by the provision of auxiliary aids or services in a manner that will not fundamentally alter the nature of the foster care or adoptive services program or pose an undue financial or administrative burden on DFCS, as required by federal law. If not, a denial decision may be made based on this factor.
3. Document the results from the IA Tool in Georgia SHINES within 72 hours of completion. Include the following:
 - a. Name of the applicant and the date and time of the IA;
 - b. Findings of the IA; and
 - c. A statement indicating the basis of a denial, including whether the denial is based on a disability, and whether reasonable modifications could allow the applicant to participate.
 - d. Upload the IA Tool into External Documentation in Georgia SHINES. Use the Foster/Adoptive Home Information Document Class and use the heading "ADA Individualized Assessment."
 4. Consult with the Regional ADA/Section 504 Coordinator throughout the IA process for technical assistance.
 5. If it appears that a disability may interfere with the individual's ability to be approved or continue to participate in the Foster Care or Adoption program, ask the individual if he/she would like to request a reasonable modification.
 - a. Use the Caregiver Request for Reasonable Modifications to document all requests for reasonable modification, including the date of receipt.
 - b. If the request is received orally, the DFCS worker must document the request on the Caregiver Request for Reasonable Modifications.
 - c. Upload the Caregiver Request for Reasonable Modifications into external documentation in Georgia SHINES. Use the Foster/Adoptive Home Information Document Class and the heading "ADA R/A Request."
 6. Direct all requests for reasonable modifications made by or on behalf of individuals with disabilities to the Regional ADA/Section 504 Coordinator for review and approval.
 7. If the results of an Initial Family Evaluation or Re-evaluation may result in a denial decision based on an individual's disability, staff the case with the Regional ADA/Section 504 Coordinator and the Caregiver Recruitment and Retention Unit Manager before taking any action that may adversely affect the ability of caregivers with disabilities to participate in the Foster Care or Adoption program.
 - a. If there is concurrence at this level regarding the denial, that decision must be forwarded to and reviewed by the Placement and Permanency Services Director (or

- his or her designee) for finalization.
- b. After review by the Placement and Permanency Services Director, the Regional Coordinator will forward all denials to the State DFCS Civil Rights, ADA/Section 504 Coordinator for final review and approval by the Division Director (or his/her designee).
8. Send caregivers a letter notifying them of the final decision regarding their request for reasonable modifications within 30 business days of receiving the request.
 - a. Final decision letters must be signed by the local County Director.
 - b. Letters of denial must include the basis of the denial and whether reasonable modifications could have allowed the applicant to participate or continue participating in the program.
 - c. Upload the final decision letter into External Documentation in Georgia SHINES. Use the Foster/Adoptive Home Information Document Class and the heading “ADA/RA DFCS Response.”
 9. Upload any subsequent communications regarding the reasonable modifications request into external documentation in Georgia SHINES. Use the Foster/Adoptive Home Information Document Class and the most applicable heading.

PRACTICE GUIDANCE

How does the ADA define disability?

The ADA defines disability as:

1. A physical or mental impairment that substantially limits one or more of a person’s major life activities;
2. A record of such impairment; and
3. Being regarded as having such an impairment.

What is a qualified individual with a disability?

Federal law defines a ‘qualified individual with a disability’ as 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.

Individuals with disabilities must be provided opportunities to benefit from or participate in child welfare programs, services, and activities that are equal to those extended to individuals without disabilities. This principle can require the provision of aids, benefits, and services different from those provided to other parents and prospective caregivers where necessary to ensure an equal opportunity to obtain the same result or gain the same benefit, such as family reunification. For example, a child welfare agency must provide an interpreter for a father who is deaf when necessary to ensure that he can participate in all aspects of the child welfare interaction.

Individualized Assessment (IA)

Prospective or existing caregivers, with or without a disability, may pose a significant risk to the health or safety of the child that cannot be mitigated by reasonable modification. As a result, they may not be deemed an appropriate placement for a child. IA is a process used to determine whether a qualified foster or adoptive caregiver with a disability needs reasonable modifications to participate in the foster care or adoption program. The IA process is designed to assess the individual capacity of a foster or adoptive caregiver with a disability to provide a healthy and safe

environment for the child.

On a case-by-case basis, the IA is used to examine the circumstances of individuals with disabilities based upon facts and objective evidence. Decisions must never be made based on speculation, stereotypes, generalizations or unfounded fears about individuals with disabilities. Technical assistance may be requested from the Regional or State DFCS ADA/Section 504 Coordinator at any time during the IA.

The IA includes a review of auxiliary aids, services or modifications that may be afforded to the caregiver so that they can participate in the program, and an assessment of whether or not the caregiver is a 'qualified individual with a disability' as defined by the ADA (See 42 U.S.C. § 12131) and whether the caregiver poses a 'direct threat' to the health or safety of a child in DFCS custody.

What is the fundamental nature of the DFCS foster care and adoption program?

The fundamental purpose of the DFCS foster care and adoption program is to promote the safety and well-being of children in DFCS care. DFCS seeks to identify qualified individuals to serve as partners in caring for, supervising, protecting and promoting the welfare of children in foster care. These partners serve as caregivers 24 hours a day, seven days a week. The recipient of the services of the DFCS foster care and adoption program is the child in foster care. Thus, the types of auxiliary aids, services or modifications that DFCS can provide qualified applicants and participants with disabilities would be limited to those aids and modifications which are not unreasonable, costly or do not place an administrative burden given the purpose of the programs, and would not fundamentally alter the programs

Requests for Reasonable Modifications

Participants have the right to request a reasonable modification (sometimes referred to as a "reasonable accommodation"). The request may be made orally or in writing. The determination of whether DFCS will provide an auxiliary aid or modify its policies, practices, or procedures is made on a fact-specific, case-by-case basis and relies upon an individualized assessment of the caregiver making the request. For additional information regarding reasonable modifications, refer to policy [1.5 Administration: Americans with Disabilities Act \(ADA\)/Section 504 and Reasonable Modifications](#).

DFCS ADA/Section 504 State and Regional Coordinators

DFCS has at least one state office ADA/Section 504 Coordinator and a coordinator for each region. They serve both the foster care and adoptions program. Before taking action which might adversely affect the ability of a prospective or existing caregiver with disabilities to participate in the foster care and adoption program, the local DFCS office must seek guidance from the applicable coordinator. The Region's ADA/Section 504 Coordinator will serve as a second level reviewer/approver in cases where the local DFCS is considering not approving a prospective or existing caregiver who has a disability. If technical assistance or additional information is needed regarding DFCS' civil rights compliance, the Regional Coordinator may contact the State DFCS Civil Rights, ADA/Section 504 Coordinator, using the information below:

Division of Family and Children Services
DFCS Civil Rights, ADA/Section 504 Coordinator
2 Peachtree Street, N.W., Suite 19-268
Atlanta, GA 30303
(404) 657-3735 (voice)

**Individuals who are deaf or hard of hearing may call 711 for an operator to connect with us.*

To receive contact information for the Regional ADA/Section 504 Coordinator, contact the DFCS State Civil Rights ADA/Section 504 Coordinator.

FORMS AND TOOLS

DFCS Civil Rights Discrimination Complaint Form (Form 724)
Caregiver Request for Reasonable Modifications
Individualized Assessment Tool for Prospective & Existing Foster Caregivers
ADA SHINES Enhancements Instructions

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