

# State Board of Pardons and Paroles

## BOARD POLICY STATEMENT



**POLICY:** Americans with Disabilities Act (ADA) Title II Provisions      **NUMBER:** 1.133

**EFFECTIVE DATE:** October 1, 2020      **PAGE** 1 **OF** 13

**LAST REVISION:**      **BY:** Executive Director of Parole

**REFERENCE/SOURCE MATERIALS:** The Americans with Disabilities Act of 1990: 42 U.S.C. §12102, § 12131-34, and 28 C.F.R. §35.101 *et seq.*; Americans with Disabilities Act Amendments Act of 2008; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (a) – (d); O.C.G.A. §30-3-3; Ga. Comp. R. & Reg. 120-3-20-.01, *et seq.*

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- 1.101. **AUTHORITY:** The Americans with Disabilities Act of 1990: 42 U.S.C. §12102, § 12131-34, and 28 C.F.R. §35.101 *et seq.*; Americans with Disabilities Act Amendments Act of 2008; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (a) – (d); O.C.G.A. § 30-3-3; Ga. Comp. R. & Reg. 120-3-20-.01, *et seq.*
- 1.102. **PURPOSE:** To ensure compliance with applicable provisions of the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and Section 504 of the Rehabilitation Act of 1973 and to provide a prompt and equitable process to address requests by qualified individuals with disabilities for access to services, programs, or activities in compliance with these legal provisions
- 1.103. **APPLICABILITY:** Any qualified individual with a disability as defined in Title II of the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and/or Section 504 of the Rehabilitation Act of 1973
- 1.104. **DEFINITIONS:** As used in this document, the following definitions shall apply:
- 1.104.1. **Americans with Disabilities Act (ADA):** Federal civil rights law that

ensures that individuals with disabilities are guaranteed the same rights and privileges as those without disabilities

1.104.2. Americans with Disabilities Act Amendments Act (ADAAA) of 2008: Amendments to the ADA signed into law in 2008 emphasizing that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA and generally shall not require extensive analysis; the Act makes important changes to the definition of the term "disability," the effect of which is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA

1.104.3. ADA Coordinators: Individuals from each division within the Board of Pardons and Paroles who are appointed by the Executive Director to ensure compliance with the requirements of the Americans with Disabilities Act of 1990, the ADAAA of 2008, and/or Section 504 of the Rehabilitation Act of 1973

1.104.4. Auxiliary Aids and Services: Materials and personal services that may be used to provide effective communication and reasonable accommodations for people with visual, hearing, speech, or cognitive disabilities who are qualified for such under the ADA

*Auxiliary aids and services include—*

- Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- Acquisition or modification of equipment or devices; and
- Other similar services and actions

1.104.5. Board of Coordinators: ADA Coordinators (including Directors of the Clemency, Field Services, and Victim Services Divisions) meeting as a group to evaluate and render final decisions on proposed denials of accommodation requests made to the Board of Pardons and Paroles

1.104.6. Diagnostic Process: A complex, offender-centered, initial intake process through which convicted felons are assessed by the Georgia Department of Corrections. The process involves information-gathering to determine appropriate housing, programming, and service needs.

1.104.7. Disability: The term “disability” means, with respect to an individual:

- A physical or mental impairment that substantially limits one or more major life activities of such individual; or
- A record of such an impairment; or
- Being regarded as having such an impairment.

1.104.8. Fundamental Alteration: A change that is so significant that it alters the essential nature of the goods, services, privileges, advantages, or accommodations offered

1.104.9. GDC ADA Coordinator: An individual appointed by the Commissioner of the Georgia Department of Corrections to ensure that agency complies with the ADA and Rehabilitation Act requirements

1.104.10. GDC Facility ADA Coordinator: An individual, appointed by the Warden or Superintendent, who provides consultation to his/her assigned facility on reasonable accommodation requests from the offender population in concert with and to assist the GDC ADA Coordinator in ensuring the Georgia Department of Corrections’ compliance with the ADA

1.104.11. Grievance Coordinator: An individual appointed by the Executive Director of Parole to review, investigate, and resolve complaints of discrimination on the basis of disability by the Board of Pardons and Paroles

1.104.12. Major life activity: breathing, walking, talking, hearing, seeing, sleeping, caring for one’s self, performing manual tasks, working, and performing major bodily functions such as immune system functions, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions

1.104.13. Mental Impairment: Any mental or psychological disorder, including but not limited to, intellectual and developmental disabilities, organic brain syndrome, emotional or mental illness, traumatic brain injuries, and learning disabilities

1.104.14. Physical Impairment: Any physiological disorder or condition, including but not limited to, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hernic and lymphatic, skin, and endocrine

1.104.15. 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 a public entity

1.104.16. Qualified Interpreter: Someone who is able to interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively (i.e., having the skill needed to convey information back to the person) using any necessary specialized vocabulary

1.104.17. Reasonable Accommodation: Any change or adjustment that would not fundamentally alter the nature of a service, program, or activity of a living or work environment including reasonable modifications to rules, policies, or practices, the removal of architectural communication or transportation barriers, or the provision of auxiliary aids and services that permit participation of qualified individuals with disabilities

1.104.18. Section 504 of the Rehabilitation Act of 1973: The federal civil rights law protecting the rights of individuals with disabilities; Section 504 provides that "no otherwise qualified individual with a Disability in the United States...shall, solely by reason of his or her Disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

1.104.19. Undue Burden: Significant difficulty or expense incurred by a covered entity, when considered in light of certain factors; these factors include: the nature and cost of the requested accommodation; the overall financial resources of the agency involved; and the effect on expenses and resources

1.105. POLICY:

1.105.1. The Board prohibits discrimination against any qualified individual with a disability in the provision of its services, programs, and activities. When communication disabilities are indicated, staff will determine the preferred method of communication of any offender or citizen so an appropriate accommodation can be secured to allow for the individual's participation in Board services, programs, or activities.

1.105.2. The Board will provide qualified individuals with disabilities reasonable accommodations when necessary to participate in its services, programs, and activities. The Board will deny a request for accommodation only if the person seeking accommodation is not an individual with a disability; the requested accommodation is an undue burden on the agency; providing the requested accommodation causes a fundamental alteration of the nature of the service, program, or activity; equally effective access to a program, service, or activity can be afforded through an alternative

method which is less costly or intrusive; or, the requested accommodation is ineffective.

1.106. PROCEDURES:

1.106.1. Designation of ADA Coordinators

The Executive Director designates the following individuals to serve as ADA Coordinators for their respective divisions: Deputy Director of Clemency/Investigations (Clemency), Deputy Director of Field Services (Field Services), and Deputy Director of the Office of Victim Services (Victim Services). In the Deputy Director's absence, the respective Division Director will assume the duties of the ADA Coordinator. In addition to handling accommodation requests from victims for parole-related issues, the Office of Victim Services will handle accommodation requests from individuals approved by the Board to attend clemency appointments for death-sentenced offenders. The Director of Public Affairs shall be the designated ADA Coordinator for accommodation requests from members of the public desiring to attend or participate in Board meetings, public hearings, or programs not otherwise managed by the other divisions.

1.106.2. Designation of Grievance Coordinator

The Executive Director of Parole designates the Director of Human Resources to serve as the Grievance Coordinator for complaints that the Board has discriminated against an individual on the basis of disability in providing access to its services, programs, and/or activities.

1.106.3. Accommodation Requests

If a person who desires to participate in services, programs, or activities offered by the Board needs an accommodation and submits a request (verbal or written), the staff member in receipt of the request shall forward it to the appropriate division's ADA Coordinator within 24 hours, excluding weekends and holidays, using the "ADA Accommodation: Request for Auxiliary Aids and Services" Form. The Division Director for the ADA Coordinator must be copied on the request. The Board employee must document all instances where an accommodation is provided, whether by the Board or the Georgia Department of Corrections (GDC), on the "ADA Accommodation: Use of Auxiliary Aids and Services" Form.

**No meeting, interview, hearing, or other type of interaction involving a qualified individual shall proceed until a reasonable accommodation, if granted, is provided or an appeal of a denial has been concluded. As a result, these interactions may need to be rescheduled. Staff members who are required to act or render aid during an emergency, however, may do so regardless of whether a requested reasonable accommodation is available (e.g., medical emergencies).**

1.106.3.1. Interviewing Offenders during the Diagnostic Process

1.106.3.1.1 Investigators interviewing offenders who need an accommodation will use the accommodation(s) provided to the offender by GDC.

1.106.3.1.2. If the investigator determines that the accommodation provided by GDC is ineffective in overcoming a communication barrier, the investigator must immediately terminate the interview and contact the GDC Facility ADA Coordinator and request additional auxiliary aids or services to ensure effective communication based on the offender's preferred method of communication.

1.106.3.1.3. If an offender presents with an obvious communication barrier that GDC did not identify and/or provide an accommodation, the investigator must immediately terminate the interview and contact the GDC Facility ADA Coordinator and request auxiliary aids or services to ensure effective communication based on the offender's preferred method of communication.

1.106.3.1.4. If GDC cannot provide an effective accommodation, the investigator must submit a request for accommodation to the Clemency Division ADA Coordinator. The ADA Coordinator will process the request in accordance with the procedures outlined in section 1.106.4 of this policy.

1.106.3.2. Conducting Other Interviews

Prior to conducting any other interview (e.g., special interview, death-sentence commutation interview, victim-offender dialogue), the Board employee conducting the interview should determine if the individual will require an accommodation to effectively communicate or otherwise participate in the activity. This determination may be made by reviewing information in the Board's file on the individual, consulting with the individual's counselor if he/she is incarcerated, and/or asking the individual if an impairment impedes his/her ability to effectively communicate, or otherwise engage, with the employee.

1.106.3.2.1. If the individual is an offender housed in a GDC facility, or other secured facility under GDC's supervision, and needs an accommodation to participate in the interview, the Board employee must contact the GDC ADA Coordinator at least ten (10) business days prior to the scheduled interview to determine what the individual's preferred means of accommodation is and if GDC will provide it or an equally effective accommodation. If GDC agrees to provide an effective accommodation, that accommodation shall be used.

1.106.3.2.2. If the individual is an offender housed in a GDC facility, or other secured facility under GDC's supervision, and needs an accommodation to participate in the interview but GDC cannot provide an effective accommodation, the Board employee shall submit an accommodation request to the applicable division's ADA Coordinator within 24 hours, excluding weekends and holidays, of learning of this determination. The ADA Coordinator will process the request in accordance with the provisions of section 1.106.4 of this policy.

1.106.3.2.3. If the individual is not housed in a GDC facility, or other secured facility under GDC's supervision, and needs an accommodation to participate in the interview, the Board employee shall submit an accommodation request to the applicable division's ADA Coordinator within 24 hours, excluding weekends and holidays, of learning of the need for accommodation. The ADA Coordinator will process the request in accordance with section 1.106.4 of this policy.

#### 1.106.3.3. Speaking to Offender Groups

When Board members and/or employees are invited to speak to offender groups in a GDC facility, or other secured facility, any accommodations necessary for offenders in attendance should be provided by that facility. Board staff should confirm through the facility's Warden or Superintendent that any necessary accommodations will be provided before participating in the speaking engagement. If, after arrival at the facility, it is discovered that accommodation(s) are needed but have not been provided, Board staff shall contact the Warden or Superintendent and request that effective accommodation(s) be provided prior to any communication with the group.

#### 1.106.3.4. Conducting Preliminary and Final Hearings

A parolee facing revocation proceedings, who needs an accommodation due to a disability, may make a request for accommodation to the District Operations Manager (DOM) facilitating the hearing process. The request can come directly from the parolee, his/her representative, or the supervising officer. If no request is made, but it appears to the DOM that an accommodation may be needed for the parolee to effectively participate in the hearing, the DOM should inquire of the parolee, or his/her representative, if an accommodation is needed and, if so, what accommodation is preferred. Once it is determined that an accommodation is needed, the DOM should check with the local supervision office and/or the holding facility to determine if the accommodation can and will be provided through available local resources.

1.106.3.4.1. For preliminary hearings where an accommodation is needed and the accommodation will not be provided through local resources, the DOM must forward a request for accommodation to the Field Services ADA Coordinator within 24 hours of becoming aware of the need to provide accommodation, excluding on weekends and holidays. The ADA Coordinator shall process the request in accordance with the procedures outlined in section 1.106.4 of this policy.

1.106.3.4.2. For final hearings where an accommodation is needed, the DOM must forward a request for accommodation to the Field Services ADA Coordinator within 24 hours of becoming aware of the need for an accommodation, excluding on weekends and holidays. The Field Services ADA Coordinator will contact the GDC ADA Coordinator to determine if GDC will provide the requested accommodation. If GDC agrees to provide an effective accommodation, that accommodation shall be used.

1.106.3.4.3. For final hearings where an accommodation is needed and GDC advises it is unable to provide an effective accommodation, the Field Services ADA Coordinator will process the accommodation request in accordance with the procedures outlined in section 1.106.4 of this policy.

1.106.3.4.4. A witness who is expected to testify at a preliminary and/or final hearing, who needs an accommodation to do so, may request such through the DOM facilitating the hearing process. The request must be made as soon as possible but no later than three (3) business days prior to the scheduled hearing. The DOM must forward a request for accommodation to the Field Services ADA Coordinator within 24 hours of becoming aware of the need for an accommodation, excluding on weekends and holidays. The Field Services ADA Coordinator will process the accommodation request in accordance with the procedures outlined in section 1.106.4 of this policy. Members of the public who need an accommodation to observe such hearings should follow the procedures in section 1.106.3.6 of this policy to request an accommodation.

1.106.3.5. Assisting other Law Enforcement Agencies

Certified Peace Officers with the Board, who are assisting other law enforcement agencies in preserving peace, order, and security, may encounter individuals who need accommodation due to a communication or other disability. In such instances, and to the extent officer safety or the law enforcement operation is not compromised, the Board's officer must forward a request for accommodation to the



respective division ADA Coordinator no more than 24 hours, excluding weekends and holidays, after learning that the law enforcement agency being assisted will not be providing the accommodation. The ADA Coordinator shall process the request in accordance with the procedures outlined in section 1.106.4 of this policy.

1.106.3.6. Assisting Members of the Public

Members of the public desiring to participate in services, programs, and/or activities offered by the Board (e.g., attendance at public meetings, events, or hearings) and who need accommodation to do so may submit a request to the Director of Public Affairs. The individual may complete and forward the “ADA Accommodation: Request for Auxiliary Aids and Services” Form to [AccommodationRequest@pap.ga.gov](mailto:AccommodationRequest@pap.ga.gov) or make a verbal request by calling 404.657.9450. Such requests should be made as far in advance as possible but no later than five (5) business days prior to the scheduled meeting. The Director of Public Affairs shall process the request in accordance with the procedures outlined in section 1.106.4 of this policy.

1.106.4. Processing Accommodation Requests

In processing an accommodation request, the designated ADA Coordinator shall: (1) determine if the person making the request is a qualified individual with a disability; (2) determine if the accommodation should be granted, modified, or denied; (3) contact the Board’s Fiscal Services Unit to procure the accommodation, and (4) advise the staff member or other requesting party of the decision on the request, including when the accommodation is expected to be provided. If the decision is communicated to a staff member, that staff member shall forward documentation of the decision to the person in need of accommodation. This process should be completed as soon as practicable but no later than 10 business days after receipt of the accommodation request. If additional time is necessary, the ADA Coordinator may extend the timeframe by no more than 20 days and will notify the requesting party of such extension and provide an estimated date upon which the evaluation will be completed. The ADA Coordinator shall communicate these actions using the “Response to Accommodation Request” Form. Meetings, hearings, interviews, or any other event involving a qualified individual with a disability will be rescheduled as necessary during this process

1.106.4.1. For granted requests, the ADA Coordinator shall contact the Procurement Officer, or his/her designee, in the Board’s Fiscal Services Unit to procure the accommodation. The Procurement Officer shall respond to the request within 24 hours, excluding weekends and holidays, of being contacted by the ADA Coordinator. The Procurement Officer, or his/her designee, will advise the ADA Coordinator within 24 hours of obtaining the accommodation that it

has been procured and when it will be available.

1.106.4.2. If the ADA Coordinator believes the accommodation request should be denied, the Coordinator must convene a meeting with the Board of Coordinators to further discuss the proposed decision. Before a requested accommodation is denied because it appears to be an undue burden on the agency, the Board of Coordinators should consult with the Chief Financial Officer, other Board staff (e.g. Executive Director, Director of Legal Services), and/or external sources when necessary to make a fully informed decision. The final determination to deny any accommodation shall be made by a majority of the members of the Board of Coordinators.

1.106.4.2.1. Denying an Accommodation Request

A request for a particular accommodation shall only be denied for one or more of the following reasons:

- the person seeking accommodation is not an individual with a qualifying disability;
- the requested accommodation is an undue burden on the agency;
- providing the requested accommodation causes a fundamental alteration of the nature of the service, program, or activity;
- equally effective access to a program, service, or activity can be afforded through an alternative method which is less costly or intrusive; or,
- the requested accommodation is ineffective.

1.106.5. Accommodation Appeals

Any qualified individual with a disability who wishes to appeal the modification or denial of a request for accommodation may complete an “ADA Accommodation Appeal” Form and submit it the Deputy Executive Director of Parole at either of the following addresses:

AccommodationAppeal@pap.ga.gov  
or  
2 MLK, Jr. Drive, SE  
Ste. 458, Balcony Level  
East Tower, Veterans Memorial Building  
Atlanta, Georgia 30334

The appeal must be submitted within 10 business days of

the date of the denial. The Deputy Executive Director shall have 10 business days to evaluate the appeal and render a decision using the “ADA Accommodation Appeal Response” Form.

1.106.6. Documentation and Retention

Accommodation requests and all actions pertaining thereto shall be documented by Board staff contemporaneously with the action. These documents will be forwarded to and maintained by the applicable ADA Coordinator for three (3) years. The “ADA Accommodation: Use of Auxiliary Aids and Services” Form shall also be maintained in the Board’s file, if one exists, on the individual and retained in accordance with the retention schedule for such files.

1.106.7. Training on Disability Laws and Requirements

The Director of Internal Affairs and Training shall be responsible for ensuring that all employees and Board members are provided annual training on the Americans with Disabilities Act (ADA). Online training will be in conjunction with the Georgia Department of Corrections’ ADA training. ADA Coordinators, the Director of Legal Services, the Deputy Executive Director of Parole, the Executive Director of Parole, and employees who have regular contact with members of the public, victims, and/or offenders will receive additional in-person or virtual, live-training regarding disability issues and accommodation requirements. This annual training will be tailored to the Parole Board’s functions and will be developed in coordination with the State ADA Coordinator’s Office – Georgia State Financing and Investment Commission. The Director of Internal Affairs and Training will ensure that all training is current and reflects the latest developments in disability law.

1.106.8. Review of Policies and Procedures to Ensure Compliance with Disability Laws

Each Division Director will review all respective division’s policies and procedures within 90 days of the effective date of this policy to ensure they comply with the ADA and Section 504 of the Rehabilitation Act of 1973 and make any changes necessary to become compliant. Future reviews will take place on the annual review date of the policy or procedure.

1.106.9. ADA Grievances

Anyone wishing to file a complaint alleging discrimination on the basis of disability in the Board’s provision of services, activities, or programs, shall do so using the “ADA Grievance” Form. Alternative means of filing a complaint, such as personal interviews or an audio recording of the complaint, will be made available for persons with disabilities upon request. The complaint should be submitted to the Grievance Coordinator by the complainant and/or his/her designee as soon as possible but no later than 10

business days after the alleged discriminatory act, or the date the complainant learned or could have, with reasonable diligence, learned of the discriminatory act. The complaint should be sent to either of the following addresses:

ADAGrievance@pap.ga.gov  
or  
2 MLK, Jr. Drive, SE  
Ste. 458, Balcony Level  
East Tower, Veterans Memorial Building  
Atlanta, Georgia 30334

The Grievance Coordinator will promptly investigate the allegation(s). The investigation may include meeting with the complainant to discuss the complaint and possible resolutions, interviewing others who have knowledge of the alleged discriminatory act, and/or reviewing any documentation on the matter. A written determination shall be issued to the complainant within 25 business days of receipt of the complaint. Where necessary, the response will be in a format accessible to the complainant, such as large print or audio recording or other alternate format.

If the complainant disagrees with the decision of the Grievance Coordinator, he/she may appeal the decision to the Executive Director of Parole by completing the "ADA Grievance Appeal" Form. The complaint should be sent to either of the following addresses:

ADAGrievanceAppeal@pap.ga.gov  
or  
2 MLK, Jr. Drive, SE  
Ste. 458, Balcony Level  
East Tower, Veterans Memorial Building  
Atlanta, Georgia 30334

The Executive Director shall evaluate the appeal and issue a written decision within 25 business days of its receipt. Where necessary, the response will be in a format accessible to the complainant, such as large print or audio recording or other alternate format.

Should the complainant disagree with the decision of the agency, he/she may file an ADA complaint with the applicable Federal department or agency.

All documents pertaining to an ADA grievance shall be maintained by the Grievance Coordinator for three (3) years.

Terry E. Barnard, Chair  
Brian Owens, Vice-Chair  
Jacqueline Bunn, Member  
James Mills, Member  
David Herring, Member

CPK