

<p style="text-align: center;">GEORGIA GDC OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 1 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

I. Introduction and Summary:

The Georgia Department of Corrections (GDC) shall comply with the Americans with Disabilities Act Amendments Act of 2008 (ADA Amendments Act) and other applicable laws, rules, and regulations regarding the prohibition of employment discrimination on the basis of disability. GDC employees shall not retaliate against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation or reasonable accommodation processes.

II. Authority:

- A. Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1990;
- B. Section 504 of the Rehabilitation Act of 1973;
- C. Americans with Disabilities Act Amendments Act of 2008;
- D. Fair Employment Practices Act;
- E. O.C.G.A. §45-19-20 et seq.;
- F. Controlled Substances Act (21 U.S.C. 812);
- G. O.C.G.A. §45-2-40;
- H. State Personnel Board Rules: 478-1-.03, Antidiscrimination; 478-1-.15, Changes to Employment Status; and 478-1-.16 Absence from Work; and
- I. GDC Policies: 104.22, Worker's Compensation; 104.27, Suspension w/ Pay; 104.39.02, Annual & Terminal Leave; 104.39.04, Leave without Pay; 104.39.06, Sick Leave; 104.39.11, Personal Leave; 104.39.12, Family Medical Leave; 104.39.13, and Leave Donation Program.

III. Definitions:

- A. **ADA Amendments Act (ADA)** – Americans with Disabilities Act Amendments Act of 2008
- B. **Disability** – A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such as impairment; or being regarded as having such an impairment. (Note: Individuals who are “regarded as” having a disability are not entitled to reasonable accommodation.)

GEORGIA GDC OF CORRECTIONS Standard Operating Procedures		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 2 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

- C. **Drug** – A controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).
- D. **Essential Job Function** – A fundamental job duty of a position, as opposed to a marginal function of that position. The reason the position exists is to perform the “essential functions” of that position, with or without reasonable accommodation.
- E. **Illegal Use of Drugs** – The use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). This does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal Law.
- F. **Major Life Activity** – Major life activities include, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Also, include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- G. **Qualified Individual with a Disability** – An individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position that the individual holds or desires. This does not include an individual who is currently engaging in the illegal use of drugs, when actions are taken on the basis of such use.
- H. **Reasonable Accommodation** – A modification or adjustment either in the way work is customarily done, or in the work environment, permitting an employee to continue to perform the essential functions of a job. Accommodations may include specialized equipment, facility modifications, and adjustments to work schedules or job duties.
- I. **Undue Hardship** – An action that if granted as an accommodation would require significant difficulty or expense when the following factors are considered:
1. The nature and cost of the accommodation;
 2. The overall financial resources of the organizations(s) involved in the provision of the reasonable accommodation;
 3. The number of employees affected by the accommodation; and

<p style="text-align: center;">GEORGIA GDC OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 3 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

4. The impact of such accommodation upon the operation of the organization.

IV. Statement of Policy and Applicable Procedures:

GDC will comply with the ADA Amendments Act.

The Correction Human Resource Management (CHRM) Compliance Unit manages all employment related discrimination issues involving applicants and GDC employees. CHRM Compliance Unit will provide guidance, coordination, and technical assistance to GDC managers and supervisors on the application of this policy, equal opportunity diversity training, monitoring, and corrective action of unlawful discrimination management activities. Each facility/office/program will post a copy of the Equal Employment Opportunity Commission Poster, Attachment 1, on the Official Bulletin Board.

Hiring Managers will ensure that qualification standards, tests, or selection criteria are job related and consistent with business necessity.

Health information of employees and requests for accommodations is confidential. Managers, supervisors, and human resources staff will not provide other staff the reason for an accommodation or any other information regarding an accommodation request.

A. Pre-employment Inquires:

1. If an applicant requests reasonable accommodations for the interview under the ADA Amendments Act, the Hiring Manager will contact the Correctional Human Resource Management (CHRM) Compliance Unit for guidance.
2. Hiring Managers will not permit any pre-employment inquiries about the existence, nature, or severity of an applicant's disabilities prior to a conditional offer of employment.
3. Hiring Managers may permit pre-employment inquiries about the ability of an applicant to perform essential job functions only if the inquiry is made of all applicants.
4. During the interview, if an applicant requests an accommodation for the position, the applicant will be advised that the accommodation will be taken into consideration if selected. The Hiring Manager will consult with the

GEORGIA GDC OF CORRECTIONS Standard Operating Procedures		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 4 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

CHRM Compliance Unit about the request before making the selection for the position.

B. Medical Examinations:

1. All medical and physical examinations of prospective and current employees must be job related, consistent with business necessity and performed by non-GDC medical staff.
2. Post Offer Examinations:
 - a. A medical examination may not be used to eliminate applicants for employment.
 - b. A medical examination will be permissible when:
 1. A conditional offer of employment has been made; and/or
 2. All entering employees are subjected to an examination regardless of disability.
 - c. An offer of employment may be made contingent upon an applicant successfully passing a physical examination.
 - d. All pre-employment medical and physical examinations will be administered in accordance with laws, rules, regulations, and policies governing the State's Medical and Physical Examination Program (MAPEP)

C. Reasonable Accommodations:

1. General Procedures:
 - a. The GDC will attempt to provide a reasonable accommodation if, to do so, does not interfere with the employee's ability to perform the essential functions of the position or impose an undue hardship on the employee's work unit.
 - b. Individuals who are "regarded as" having a disability are entitled to reasonable accommodation.
2. Requesting an Accommodation:
 - a. A request for an accommodation should be submitted to the HR office serving the employee/selectee work unit when possible.
 - b. The unit receiving the request will immediately forward the request to the CHRM Compliance Unit. No formal commitment to the accommodation request will be made at this time.

<p style="text-align: center;">GEORGIA GDC OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 5 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

3. Medical Validation:
 - a. All request for reasonable accommodations will require medical validation.
 - b. The ADA Physician's Statement, Attachment 2, will serve as the medical validation and must be completed by the employee's attending physician.
 - c. A copy of the employee's current job description and individual performance plan (if available) will be attached to the ADA Physician's Statement to assist the physician in the review of the medical evaluation of the employee's disability/medical condition in relation to the essential or apparent job functions.
 - d. In addition, the employee may grant permission, in writing, for the Director of Human Resources, CHRM Compliance Unit, or appropriate personnel, to communicate directly with the physician regarding the accommodation request. To grant this permission, the applicant/employee will be required to sign the Authorization for Release of Medical Information, Attachment 3.

4. Determination of Reasonable Accommodation:
 - a. A decision on the request will not be made until the Director of Human Resources and/or CHRM Compliance Unit receives the medical validation and the information is analyzed.
 - b. The CHRM Compliance Unit will communicate the determination to the applicant/employee, in writing. The confirmation will be filed in the employee's medical file.
 - d. The applicant/employee must perform the essential functions of the position, whether the accommodation is accepted or not.

5. Temporary and Modified Work Assignments:
 - a. The employee may be placed in a modified work environment or given temporary duties or a modified work assignment until a decision on the reasonable accommodation can be made.
 - b. A temporary or modified work assignment will not continue after a decision has been rendered regarding the reasonable accommodation request.
 - c. If the employee is unable to return to work and perform the essential functions of the position, family and medical leave may be authorized

<p style="text-align: center;">GEORGIA GDC OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 6 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

or other forms of authorized leave with or without pay may be considered by the Director of Human Resources.

6. Alternative Employment:
 - a. When reasonable accommodation is not possible, an employee may be offered alternative employment to a vacant position, if minimum qualifications for the job code can be met.

D. Illegal Use of Drugs and Misuse of Alcohol:

1. The term “qualified individual with a disability” will include an individual who:
 - a. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
 - b. Is participating in a supervised rehabilitation program and is no longer engaging in such use; or
 - c. Is erroneously regarded as engaging in such use, but is not engaging in such use. (Note: Individuals who are “regarded as” having a disability, are not entitled to reasonable accommodation.)
2. An employee who uses drugs illegally or who has been medically diagnosed to be an alcoholic will be subject to the same qualification standards for employment, job performance and behavior standards and/or expectations, and terms and conditions of employment that other employees are subject to, even if unsatisfactory performance or behavior is related to the employee’s drug use or alcoholism.
3. A test to determine the illegal use of drugs will not be considered a medical examination.

E. Separation from Employment Due to the Inability to Perform Essential Duties:

1. An employee may be separated from employment when:
 - a. There is no reasonable accommodation that can be made without incurring an undue hardship; and/or
 - b. Additional leave options have been considered and are either determined not to be available or cannot be granted without undue hardship; or
 - c. There are other considerations by the Director of Human Resources.

<p style="text-align: center;">GEORGIA GDC OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Americans with Disabilities Act, Title I (Employment Provisions)		
Policy Number: 104.21	Effective Date: 4/25/17	Page Number 7 of 7
Authority: Commissioner	Originating Division: Administration and Finance Division (Human Resources)	Access Listing: Level I: All Access

2. Classified employees with permanent status may only be separated pursuant to State Personnel Board Rules and applicable GDC policy.

F. Complaints:

1. Employees are encouraged to use internal procedures to address any complaint concerning the GDC's administration of the ADA Amendments Act. Complaints may be filed in accordance with the following policies, as applicable:
 - a. 104.43, Employee Complaint Resolution; and
 - b. 104.46, Unlawful Harassment (Includes Sexual Harassment).

V. Attachments:

Attachment 1	Equal Employment Opportunity Commission Poster;
Attachment 2	ADA Physician's Statement; and
Attachment 3	Authorization for Release of Medical Information.

VI. Record Retention:

Attachment 1 shall be permanently placed on all Official Bulletin Boards in all work locations. Attachments 2 and 3 shall be placed in the employee's local medical file and permanently retained.