



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • TTY (808) 586-8162

REVISED AGENDA

Disability and Communication Access Board General Meeting

Location: Kamamalu Building

1010 Richards Street, Conference Room 111A

Date: January 17, 2019

Time: 11:00 a.m. to 1:00 p.m.

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Minutes of November 15, 2018
- IV. Executive Director's Report
 - Budget
 - Personnel
 - Other Administrative Issues
- V. Old Business
 - A. ADA Coordination Update
 - B. City and County of Honolulu - Rate Commission Recommendation on Handi-Van Fares - Update
- VI. New Business
 - A. Restoration of Enforcement Authority under §368-1.5, Hawaii Revised Statutes - Hawaii Civil Rights Commission
 - B. S. 3679 – Readying Elders and Americans with Disabilities Inclusively for Disasters Act (READI for Disaster Act)
 - C. Implementation of Act 217 (2018) – Misrepresentation of a Service Animal
- VII. Committee Reports
 - A. Executive Committee (No report)
 - B. Legislative Committee

- C. Standing Committee on Communication Access
 - Hawaii Quality Assurance System (HQAS) – Update
 - HQAS Continuing Education Units Program
 - Hawaii Administrative Rules, Title 11, Chapter 218, “Communication Access Services for Deaf, Hard of Hearing, and Deaf-Blind” and Accompanying Videos and Documents
 - 2019 Legislation on Open Movie Captioning
 - Other Communication Activities from the Plan of Action FY 2018-2019

- D. Standing Committee on Facility Access
 - Document Reviews and Database – Update
 - Facility Access Trainings and Disability Access Conference, May 9, 2019
 - Projects in Conceptual Design Stage
 - Other Facility Access Activities from the Plan of Action FY 2018-2019

- E. Standing Committee on Parking
 - Parking Program Issuance and Statistics – Update
 - Public Education Quality Assurance and Outreach Efforts – Update
 - 2019 Legislation on Parking
 - Hawaii Administrative Rules, Title 11, Chapter 219, “Parking for Persons with Disabilities”
 - Other Parking Activities from the Plan of Action FY 2018-2019

- F. Special Parent Information Network
 - Update of Activities from the Plan of Action 2018-2019

VIII. Open Forum

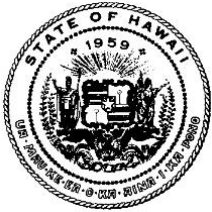
IX. Next Meeting: The next meeting is scheduled for March 21, 2019, 1010 Richards Street, Room 118, 11:00 a.m.

X. Adjournment

Board packets are available for inspection in the DCAB office, and by mail or by email upon request.

If you need an auxiliary aid/service or other accommodation due to a disability, contact Cindy Omura at (808) 586-8121 or dcab@doh.hawaii.gov as soon as possible, preferably by January 14, 2019. If a response is received after January 14, 2019, we will try to obtain the auxiliary aid/service or accommodation, but we cannot guarantee that the request will be fulfilled.

Upon request, this notice is available in alternative formats such as large print, Braille, or electronic copy.



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Disability and Communication Access Board General Meeting January 17, 2019

ADA Coordination Report

Since the last meeting on November 15, 2018, ADA activities of all DCAB staff included:

1. Provided technical assistance (TA) to one hundred thirty-nine (139) callers for November and December 2018 on issues related to the ADA. Key departments/agencies were: Judiciary, State Senate; Departments of Accounting and General Services (DAGS)–Aloha Stadium, Agriculture (DoAg), Business, Economic Development and Tourism (DBEDT)-Hawaii State Energy Office, Commerce and Consumer Affairs (DCCA), Education (DOE), Health (DOH), Land and Natural Resources (DLNR), Labor and Industrial Relations (DLIR), Public Safety (PSD), University of Hawaii (UH)-Community Colleges-Kauai Community College, University of Hawaii at Manoa (UHM), and the Counties of Hawaii, Maui and Kauai. Examples of significant TA to the following State and County ADA Coordinators were:

Department/Agency

Issue and TA provided

Health

Has a speaker who is hearing impaired coming to speak to a group. She can speak for herself, but how will she answer questions from the audience? She said she can use captioning.
Whatever is provided, they should discuss it with the speaker and ask her what she prefers to use. Based on that information either hire an interpreter or a captioner or use Real Conference Captioning (RCC). Referred to Sprint Relay for RCC.

Accounting and General Services-Aloha Stadium

Clarification on what an ADA Seat is. Someone won free tickets for the PIT concert. Is the Stadium required to exchange the tickets for accessible seating? The free seats are general admission and not reserved seating.
The seats were free not purchased. The Stadium is not required to exchange them for accessible seats. The individual can buy accessible seats and do what they want with the free tickets, but ADA does not require free seating to be exchanged for reserved seats.

Business, Economic Development and Tourism-Hawaii State Energy Office

Do state contracts have language stating the vendor must comply with the ADA?
All state contracts should include boilerplate language that contractors must comply with all applicable federal, state and county laws. It may not specifically

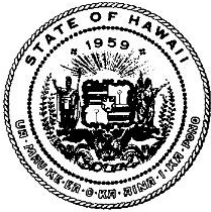
say the ADA, but it is a federal law and is included. The vendor, by accepting state money, is acting on behalf of the state and must comply with the ADA.

University of Hawaii at
Manoa

An environmental group is working on banning plastic straws at eating establishments on campus. Doing research on the implication it would have on students with disabilities. What is DCAB's advice on the topic?
If signs are posted it should be to indicate that if someone needs a plastic straw, then request one. This will keep the issue neutral and not related to a person's need due to a disability.

2. Hosted seven (7) webinars related to ADA issues:
 - Five (5) webinars sponsored by the National ADA Network on:
 - "Inclusive Disaster Preparedness, Response, and Recovery – Getting It Right"
 - "Best Practices in Inclusive Employment Practices"
 - "Got Your Car Keys? Ready? Here We Go Again, Talking about Parking and the ADA"
 - "Creating Accessible Documents with Adobe InDesign"
 - "Access to Cultural Programs and the Arts: Serving Patrons with Disabilities"
 - Two (2) webinars sponsored by the U.S. Access Board on:
 - "Accessible Exterior Routes and Surfaces"
 - "Common Sources of Confusion in the ADA and ABA Standards"
3. Provided technical assistance to the following agencies or departments on reasonable accommodations for employees with disabilities: State Senate, Judiciary, DOE, DOH, UH–Community Colleges, and the County of Hawaii.
4. Attended one (1) County ADA Coordinators meeting and staffed one (1) State ADA Coordinators regular meeting.
5. Conducted seven (7) ADA trainings: "Service Animals in Public Accommodations" for Queen's Medical Center in Honolulu and West Oahu, "Comfort Animals and Service Animals" for Atlas Insurance Agency, FEMA Emergency Preparedness Roundtable (Hawaii and Maui), and "Basic ADA Accessibility Guidelines" presented twice for state employees.
6. Continued distributing the Communication Access cards to deaf and hard of hearing people at various points statewide. Established new distribution points at the County Departments of Motor Vehicles and Judiciary statewide.
7. Maintained current information on the ADA Coordinators secured web site and DCAB's web site by ensuring current lists of State and County ADA Coordinators were available. Streamlined the ADA Coordinators secured web site to information currently being accessed by ADA Coordinators.

Any questions regarding ADA Coordination activities should be directed to Debbie Jackson at (808) 586-8121 or debbra.jackson@doh.hawaii.gov.



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STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING January 17, 2019

TOPIC: S. 3679 - Readyng Elders and Americans with Disabilities Inclusively for Disasters Act (READI for Disaster Act)

BACKGROUND AND SUMMARY:

Disasters have steadily increased in intensity and frequency, and their threats to the community continues to grow. Last year Hawaii experienced several emergencies beginning on January 13, 2018 with the false missile alert, April with the Kauai and Oahu flooding, May 3, 2018 with the Kilauea eruptions and lava flow, to Hurricanes Lane and Olivia in August followed by high winds and rain after they were downgraded to tropical storm status. Planning has occurred statewide related to preparation and response to major disasters and requires coordinated efforts between federal, state, county, and non-governmental agencies. Disaster management only succeeds when all those affected come to the table to address the diverse needs of the community. Without a coordinated effort and multi-level effort, quite often the approximately 300,000 individuals with disabilities, older adults, children and others with access and functional needs are overlooked when disaster strikes.

DCAB has been working continually with the Hawaii Emergency Management Agency (HI-EMA) and each of the county Emergency Management and Civil Defense Agencies to include people with disabilities and others with access and functional needs in all phases of emergency management since 2005. There were some in-roads made with the establishment of a working group who developed the "2006 Interagency Action Plan for the Emergency Preparedness of People with Disabilities and Special Health Needs." The Plan was revised three times with the last version of the Plan in 2009.

The purpose of this bill is to improve inclusion of people with disabilities and older adults in preparation for, response to, recovery from, and mitigation of disasters; ensure the rights of the target population are free from discrimination on the basis of disability or age in programs and activities such as preparation, response, recovery and mitigation; ensure compliance with the ADA and the Rehabilitation Act of 1973 and other laws related to preparation for, response to, recovery from and mitigation of disasters; improve coordination among the community of people with disabilities and older Americans, government agencies, Volunteer Organizations Active in Disasters (VOADs), and other non-governmental entities in preparing and planning for, responding to, recovery from and mitigation measures; and improve outcomes for all individuals including people with disabilities and older adults who are affected by disasters, and increase community resilience in responding to disasters.

This bill was initially introduced on November 29, 2018 in the 115th Congress as S. 3679. The 116th Congress began on January 3, 2019; therefore, the bill would have to be re-

introduced to move forward. This analysis is based on the assumption that the new bill will be similar if not identical.

SECTION-BY-SECTION SUMMARY

Sections 1 to 4 – Title; Findings; Purposes; and Definitions

This section officially names the legislation, lays out the purpose of the bill and details the definition of terms used.

Section 5 – Use of Disaster Response Funds

Amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Section 615 to address the needs of people with disabilities in Federal disaster funding.

Section 6 – Training, Technical Assistance, and Research Disability and Disaster Centers

Provides financial support for developing and providing technical assistance and training to State and local emergency managers and disaster relief agencies. Will ensure the needs of people with disabilities and older Americans are addressed throughout emergency preparedness, disaster response, recovery, mitigation and community resilience.

Section 7 – Projects of National Significance

Defines terms used in this section and appropriates funds for grant projects of 3–5 year duration focusing on serving the needs of people with disabilities and older adults to develop cross-disability, consumer-directed community support services to promote inclusion, needs and rights of covered individuals to prepare for, respond to , recover from, and mitigate disasters and establish an advisory group in which half the group are members of the covered individuals.

Section 8 – National Commission on Disability Rights and Disasters

Establishes the National Commission on Disability Rights and Disasters. The Commission will study and provide recommendations on how to ensure emergency preparedness, disaster response, recovery and community resilience efforts meet the needs of people with disabilities and older Americans.

Section 9 and 10 – Review of Department of Justice Settlement Agreements and Government Accountability Office (GAO) Report

Requires the Department of Justice (DOJ) to create an Oversight Committee to review all Americans with Disabilities Act settlement agreements related to disaster response activities for the years 2005 to 2017. Also directs GAO to investigate whether past federal disaster funds have been used to ensure accessibility to emergency programs and services.

ANALYSIS:

Sections 1 – 7 are clear and straight forward. No comments or suggestions for changes.

Section 8 – National Commission on Disability Rights and Disasters

Instead of a National Commission on Disability Rights and Disasters, establish liaisons in each state to attend national meetings either in person or online and develop policies and plans within each state. The diversity of types of people with disabilities and membership of such a group will better reflect each state and develop leadership at the state level. A national commission often does not reflect what is happening at the state level and the unique natural disasters faced by each geographic location. Any funding appropriated to

establish a national commission could be appropriated to FEMA offices for a state disability specialist for disasters.

Section 9 – Review of Settlement Agreements

DOJ already has the information available. Instead of creating an advisory committee to review cases, DOJ could collect the information available, and conduct a review and analysis of the settlement agreements to point out patterns and areas that need correction.

Section 10 – GAO Report on Past Use of Disaster Funds. No comment.

STAFF RECOMMENDATION:

Staff recommends that DCAB support the bill with the above comments. Our testimony should include comments provided in the analysis section, as well as add in state activities related to people with disabilities and emergency management in which Hawaii has taken the lead in planning and implementation.



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MINUTES

Disability and Communication Access Board General Meeting

Location: Kamamalu Building
1010 Richard Street, Conference Room 111A

Date: January 17, 2019

Time: 11:00 a.m. to 1:00 p.m.

PRESENT: Bill Bow, Chairperson; Monty Anderson-Nitahara, Pauline Aughe, Rosanna Daniel-Kanetake, Dean Georgiev, Violet Horvath, Nikki Kepo'o, Marie Kimmey, Justin Tokioka, Misella Tomita, Ami Tsuji-Jones, Bryant Yabui, Board Members; Francine Wai, Debbie Jackson, Kristine Pagano, Bryan Mick, Colin Whited, Staff

ABSENT: Anthony Akamine, Ron Awa, Scott Fleming, Summer Kozai, Phyllis Meighen, Board Members

GUESTS: Aaron Aughe, Peter Fritz, Robin Wurtzel

SIGN LANGUAGE

INTERPRETERS: Mala Arkin and Michele Morris

COMPUTER ASSISTED

NOTETAKERS: Katarina Ruiz and Noah Unabia

- I. The meeting was called to order at 11:09 a.m. by Chairperson Bill Bow.
- II. Minutes of the November 15, 2018 meeting were approved as circulated (M/S/P Yabui/Kimmey).
- III. Executive Director's Report

Francine Wai provided an Update to the Board on the DCAB Biennium Budget Request. Four requests were initiated, as reported in previous minutes. The first request is to extend the position of the Facility Access Specialist for the full Biennium Budget cycle. She noted that we have yet to fill the position. This request has been approved for inclusion in the Executive budget. The second request was for a new Information Technology position. This request was partially approved at .5 FTE (half time) in the Executive budget. The third request was for a new position on Emergency Preparedness focusing on access and functional needs. This position was not approved. The fourth, and last, request was a housekeeping request relating to changing of account codes that did not require any money. This request was approved. The Department of Health (DOH) budget hearings, of which DCAB's budget is a part, was heard on January 10 and January 15 in the House Finance and

Senate Ways and Means Committees, respectively. There were no questions on our budget, although there will be follow up questions and additional information that is requested from the budget analysts-for any requests.

In terms of personnel, Francine Wai noted that we have begun advertising for a Facility Access Specialist position. The announcement was in Sunday's Star Advertiser, is posted on DCAB's web site, and was announced in the Access E-Bulletin. We are open to both a half-time and full-time position depending upon the outcome of our biennium budget hearings as well as the interest level of the applicants.

IV. Old Business

A. ADA Coordination Update

Debbie Jackson referred members to the ADA Update and staff summary that was mailed to all members. There were no questions from the members.

Guest Peter Fritz commented that he had a concern that a situation at the Aloha Stadium where a person with a free ticket was not given an accommodation. Debbie Jackson stated that the person was given an accommodation, but that did not include trading for a more expensive paid seat.

B. City and County of Honolulu - Rate Commission Recommendation on Handi-Van Fares – Update

Bryan Mick reported that Bill 77, which takes into account rates of Handi-Van rides, raising them from \$2.00 to \$2.25, as supported by DCAB, will be heard next week. Staff will update the Board as the rate issue progresses.

V. New Business

A. Restoration of Enforcement Authority under §368-1.5, Hawaii Revised Statutes - Hawaii Civil Rights Commission

Francine Wai introduced Robin Wurtzel, Chief Counsel of the Hawaii Civil Rights Commission, to speak to the issues surrounding Hawaii Revised Statutes (HRS) §368-1.5, our state law prohibiting discrimination on the basis of disability in state funded services, a recent Hawaii Supreme Court case. The issue was whether HCRC had jurisdiction in an education case and a child's Individualized Education Program (IEP) placement. The Court opined that HCRC only had jurisdiction in this statute in programs that did not receive federal funding because those programs were already covered by Section 504 of the Rehabilitation Act. The decision essentially renders the statute toothless because most programs receive some sort of federal financial assistance. HCRC has prepared a bill to restore the jurisdiction as it was prior to the court case, although they were willing to offer an exemption to the Department of Education. They are awaiting a decision as to whether or not the bill will be included in the Governor's package due to concerns from the University of Hawaii (UH) seeking an exemption for the UH system. She noted that any compromise regarding the UH system is a policy decision for

HCRC. If the bill is not introduced by the Governor, it will be introduced in the Senate and possibly in the House as well.

Francine Wai noted that our Plan of Action already includes support of HCRC's efforts to correct the statute.

Board member Monty Anderson Nitahara asked if HCRC collaborated with Hawaii Disability Rights Center (HDRC). Robin Wurtzel noted that the bill is not a collaboration, but in discussions with HDRC, who can represent the complainant, they are eager to support the bill and restore jurisdiction. Guest Peter Fritz noted that HCRC's jurisdiction gives someone the ability to have redress or action taken within the state and explained how a complaint he filed was preempted by the court case.

B. H.R. 6427 and S. 3679 – Reliable Emergency Alert Distribution Improvement Act of 2018 (READI Act)

Debbie Jackson provided a brief explanation of the history of the "READI for Disasters Act" and reviewed the analysis section on the bill. Staff recommendation is to support the bill and provide comments that instead of a National Commission on Disability Rights and Disasters that representatives/liaisons from each state be appointed to assist in the development of policies and plans. The rationale is that each geographic region has unique disasters and meeting either in person or online would assist in the development of leadership at the state level. Also, it was suggested that the Department of Justice provide the analysis of cases reviewed related to people with disabilities and emergency management. Testimony from DCAB should also include activities related to people with disabilities and emergency management activities in which Hawaii has taken the lead for planning and implementation. The Board voted to support staff's recommendation to provide comment as noted in the staff summary (M/S/P Kepo'o/Kimmey).

C. Implementation of Act 217 (2018) – Misrepresentation of a Service Animal

Francine Wai reported that this item is on the agenda for informational purposes because January 1, 2019 was the implementation date for Act 217 of the 2018 Legislature. Act 217 amended state law to add a new section, HRS §347-2.6 that creates a civil penalty for misrepresentation of a service animal. The law states that it is unlawful for a person to knowingly misrepresent a service animal as an animal that does not meet the requirements of a service animal. The statute definition of a service animal mirrors the ADA definition. The fine is not less than \$100 and not more than \$250 for the first violation, and not less than \$500 for a second violation and each violation thereafter. Staff invited Senator Ruderman to attend as the sponsor of the bill, but he was unable to attend due to the Legislature. Also a representative of the Honolulu Police Department (HPD) was also unable to attend. Staff reported that the Act became law without the Governor's signature because of the concern over enforcement, an issue that the bill's sponsors, legislators, and enforcement officers acknowledge is not likely to happen often. DCAB reached out to the four county police departments to ask how they would respond to a service animal call. To date, only HPD

responded. HPD indicated that if a police report is received on a service dog issue, they will arrive and ask the two questions that they are authorized to ask under the ADA. Should the investigation reveal clear and convincing evidence that a person knowingly misrepresented a dog as a service animal, the person MAY be issued a citation that says "COURT" referencing HRS §347-2.6. HPD did indicate, however, that this is likely not to happen. Typically, in any community situation where the police are called, there are steps to follow. The first is reasonable suspicion to make a stop. This could be observation or a phone call to HPD. This is followed by probable cause to arrest or give a ticket. Probable cause is a judgement call on the part of the HPD officer based upon observation, etc. In this case, a ticket could be issued to appear in court and, when so, it would be adjudicated with the standard being "proof beyond reasonable doubt." In the case of Act 217, the standard of "probable cause" to issue a ticket is replaced by "clear and convincing evidence" which is a much higher standard. Also, the Act does not make it illegal to have a so-called "fake service animal" but to 'knowingly misrepresent a dog as a service animal.' Thus, if a person has an emotional support animal and believes that the animal is truly a service animal because he/she believes that emotional support is a service, the police would not consider that to be a violation of the law, even though the animal is not a service animal. The standard of "knowingly misrepresent" goes to the state of mind of the person, not the status of the animal. Thus, police do not feel that they can judge the person's state of mind. The standard of clear and convincing evidence is a standard very hard to observe on the spot. The person would have to admit that the animal is not a service animal. Hence, HPD states that they are not likely to issue any tickets. HPD indicates that if an animal misbehaves, the owner and/or the police may ask the person to leave or to remove the animal on the basis of the animal's behavior and not because of the new law. If the person refuses to leave or remove the dog from the premises, then the person can be issued a citation based upon trespassing. This would be the case for any situation where a person is disruptive or unruly or asked to leave the premises. A major problem is that businesses believe that they cannot ask a person to remove a service animal. Guest Peter Fritz indicated that as a drafter of the bill, it was initially intended to be a criminal penalty and based upon similar legislation in other jurisdictions. The penalty can only be assessed as fraud if someone is trying to obtain a benefit such as access to a business. Robin Wurtzel from the HCRC stated that their agency opposed the bill due to the lack of enforcement and the attempt to criminalize the infraction, particularly folks whose disabilities precluded their ability to understand the difference between a service animal and another type of emotional support animal. HCRC also believed that there would be unintended consequences in the housing context. Board member Ami Tsuji-Jones questioned why a registry could not be established to verify authenticity and staff responded that such a requirement is not allowed under the ADA. Guest Peter Fritz indicated that a registry is permitted so long as it is voluntary. Staff indicated that Oahu used to have a distinction when a dog license was issued and operated by the Hawaiian Humane Society (HHS) under contract with the City and County of Honolulu. However, this ordinance was repealed when the new ADA regulations were issued in 2010 stating that such a registry could not be required. In addition, there was no money to continue contracting with HHS for this growing administrative burden.

VI. Committee Reports

A. Executive Committee (No report)

B. Legislative Committee

Committee Chairperson Rosanna Daniel-Kanetake announced that two bills that DCAB initiated have been accepted as part of the Governor's package. As a reminder, these two bills are (1) a bill to restore the requirement to provide two open captioned movie screenings per week, subject to certain conditions, without a sunset date; and (2) a bill on parking for persons with disabilities to amend the free metered parking privileges, clarify (but not change) the definition of who is eligible for a permit, and make other clarifying amendments.

The Committee will be meeting weekly on Wednesdays at noon beginning January 23, 2019. Board members will be sent the minutes weekly on bills reviewed by the Committee and its positions. DCAB is also co-sponsoring a Day at the Capitol on March.

Guest Peter Fritz stated that he is initiating a bill again to provide a tax exemption on the purchase of various medical equipment and said that DCAB support would be appreciated. Staff mentioned that the issue is on the agenda for the Legislative Committee meeting next week.

C. Standing Committee on Communication Access

Committee Chairperson Nikki Kepo'o reported that the Standing Committee on Communication Access will formally meet at 1:00 p.m. today for the first time since July 19, 2018. The Committee also met on September 20, 2018, but the meeting was informational as there was no quorum.

There are currently twenty-seven interpreters enrolled in the Hawaii Quality Assurance System (HQAS) Continuing Education Program. There are no interpreters on a Continuing Education Unit (CEU) extension.

The HQAS test performances of two interpreters were evaluated; they both were issued an HQAS Level III +H credential. DCAB also administered two HQAS tests earlier this month, and we are currently awaiting the results of those tests. DCAB has contracted with the Comprehensive Service Center to develop videos related to 1) the Interpreter Code of Professional Conduct and 2) interpreting using local language/dialect.

Hawaii Administrative Rules, Title 11, Chapter 218, "Communication Access Services for Deaf, Hard of Hearing, and Deaf-Blind," it was reported at the last meeting that the proposed Communication Access rules, draft memorandum, and draft Small Business Impact Statement were sent to the Deputy Attorney General (AG) on August 15, 2018 for approval to proceed with rulemaking. DCAB recently received a response from the Deputy AG and we anticipate getting the rules back to move forward.

On January 11, 2019, DCAB hosted a CEU workshop on vocabulary of the legislative and budget process. This workshop was previously offered on January 13, 2018. Thanks to staff efforts (Kamaile Hopfe), for the first time, DCAB was able to allow neighbor island interpreters to participate remotely. There was a total of eleven participants, with three from the neighbor islands.

Approximately 2,500 Communication Access cards have been sent to various locations statewide. The card was also included in DOH's end-of-year highlights recognizing the card as one of the Department's 2018 accomplishments.

DCAB's Open Movie Captioning bill is being included in the Administration's Package for this legislative session. DCAB has contracted with Ryan Marshall to produce videos of staff providing updates on primarily the movie captioning bill, Stoked Industries LLC, and other legislative matters relating to communication access as well. Contact Colin Whited or Kamaile Hopfe if you wish to receive these updates. The videos will also be uploaded to DCAB's Communication Access page on Facebook.

D. Standing Committee on Facility Access

Committee Chairperson Marie Kimmey reported that the Facility Access Unit (FAU) reviewed two hundred thirty five projects from October 1 to November 31, 2018 of which one hundred five were new submittals. Fees collected were on track for that period of time.

On January 8 and January 16, 2019 the FAU conducted the second unit of the new basic Americans with Disabilities Act Accessibility Guidelines (ADAAG) training series and has set dates for the third unit in March. The launch of the new facility access database is expected to occur in the beginning of March. The announcement for the new Facility Access Specialist position has been posted with a deadline for resumes set for February 15, 2019. The office modifications for the new workstation are expected to take place in the next few weeks.

The accessibility standards that are used for the document reviews done by the FAU staff often referenced standards from other documents such as the fire or plumbing codes. The referenced standards often include technical requirements that do not pertain to accessibility and the FAU staff does not have the expertise to provide the appropriate guidance for these areas. For these reasons it was determined that the FAU would ask consultants to confirm that their design conforms to the referenced standard.

When DCAB is aware of large projects that are in planning and conceptual design stages DCAB sends out letters offering support to discuss or review any preliminary plans or designs for accessibility issues. Letters were sent out for the following projects: Ala Moana Regional Park Playground, Board of Water Supply Beretania Complex Redevelopment, Homeless Lift Zones, Waikiki War Memorial Complex, and Ala Wai Pedestrian Bridge. This has usually resulted in very proactive meetings to help minimize design errors and incorporate enhanced accessibility features.

Staff and Committee members discussed the Kiroly v. San Francisco court case to look at the inconsistencies in how the new guidelines that are not yet adopted by the Department of Justice should be applied to facility design.

E. Standing Committee on Parking

Committee Chairperson Pauline Aughe reported that the Committee met this morning, prior to the Board meeting. In terms of statistics, for the second quarter of fiscal year 2019 there were 7,378 placards and 358 special license plates issued. Of the placards, 1,841 were temporary and 5,537 were long term. Of the long term placards, 2,549 were renewals issued by DCAB. The renewal rate was sixty-six percent.

In terms of public education and outreach, the public service announcement on the City and County of Honolulu buses were installed and will remain through the end of the month. Afterwards, staff will work on outreach on the neighbor islands.

Pauline Aughe noted that DCAB's two parking bills that did not pass the 2018 session will be combined and reintroduced as a single bill as part of the Governor's package. The bill will (1) restrict the free parking exemption to persons who are both licensed to drive AND not able to reach or operate a parking meter because of a physical disability; (2) clarify that law enforcement officers may confiscate disability parking permits that are fraudulently made or altered, expired, invalid, offered for sale or purchased; and; (3) reword the definition of "person with a disability" to remove gray areas that cause physicians and advanced practice registered nurses to improperly certify applicants. Staff has already started meeting with key legislators to try and secure their support for the bill. An email distribution list of various community stakeholders has also been prepared to ask them to submit testimony in support of the bill.

Pauline Aughe announced that draft amendments to Hawaii Administrative Rules, Title 11, Chapter 219, "Parking for Persons with Disabilities" have been prepared and are pending review by the Deputy AG. These would (1) add the phrase 'or a commissioned medical officer in the United States Armed Forces' to the definitions to reflect language in the authorizing statute, (2) amend the list of conditions which do not qualify for parking permits to reflect current terminology, and (3) exempt stalls at workplaces which have been assigned to an employee from the accessible stall signage requirements, similar to an existing exemption for residential facilities.

For the placard death retrieval effort, DCAB mailed 7,564 letters to the estates of deceased permittees to request the return of placards. The updated return statistics are 1,478 (20%) were undeliverable letters, 524 (7%) responded that the placard was lost or tossed in the trash, 2,495 (33%) returned the placards, and 3,067 (41%) did not respond.

Finally, the Committee is still trying to work out a mechanism to populate the parking locator app with volunteers participating to assist with locating an accessible parking stall in Hawaii.

F. Special Parent Information Network

Bill Bow indicated that liaison Phyllis Meighen was not able to be present and provide a report. Francine Wai stated that there will be a staff written report attached to the minutes that summarizes key activities with the Office of Special Education Services and the Special Education Advisory Council.

VIII. Open Forum

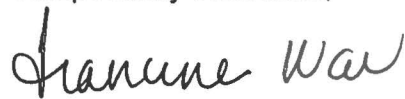
There were no items discussed in the Open Forum.

IX. The next meeting is scheduled for March 21, 2019, 1010 Richards Street, Room 118, 11:00 a.m.

X. The meeting was adjourned at 12:50 p.m.

NOTE: All votes were unanimous unless otherwise noted.

Respectfully submitted,

A handwritten signature in cursive script that reads "Francine Wai".

FRANCINE WAI



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
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Disability and Communication Access Board General Meeting January 17, 2019

ADA Coordination Report

Since the last meeting on November 15, 2018, ADA activities of all DCAB staff included:

1. Provided technical assistance (TA) to one hundred thirty-nine (139) callers for November and December 2018 on issues related to the ADA. Key departments/agencies were: Judiciary, State Senate; Departments of Accounting and General Services (DAGS)–Aloha Stadium, Agriculture (DoAg), Business, Economic Development and Tourism (DBEDT)-Hawaii State Energy Office, Commerce and Consumer Affairs (DCCA), Education (DOE), Health (DOH), Land and Natural Resources (DLNR), Labor and Industrial Relations (DLIR), Public Safety (PSD), University of Hawaii (UH)-Community Colleges-Kauai Community College, University of Hawaii at Manoa (UHM), and the Counties of Hawaii, Maui and Kauai. Examples of significant TA to the following State and County ADA Coordinators were:

Department/Agency	Issue and TA provided
Health	<p>Has a speaker who is hearing impaired coming to speak to a group. She can speak for herself, but how will she answer questions from the audience? She said she can use captioning.</p> <p><i>Whatever is provided, they should discuss it with the speaker and ask her what she prefers to use. Based on that information either hire an interpreter or a captioner or use Real Conference Captioning (RCC). Referred to Sprint Relay for RCC.</i></p>
Accounting and General Services-Aloha Stadium	<p>Clarification on what an ADA Seat is. Someone won free tickets for the PIT concert. Is the Stadium required to exchange the tickets for accessible seating? The free seats are general admission and not reserved seating.</p> <p><i>The seats were free not purchased. The Stadium is not required to exchange them for accessible seats. The individual can buy accessible seats and do what they want with the free tickets, but ADA does not require free seating to be exchanged for reserved seats.</i></p>
Business, Economic Development and Tourism-Hawaii State Energy Office	<p>Do state contracts have language stating the vendor must comply with the ADA?</p> <p><i>All state contracts should include boilerplate language that contractors must comply with all applicable federal, state and county laws. It may not specifically</i></p>

say the ADA, but it is a federal law and is included. The vendor, by accepting state money, is acting on behalf of the state and must comply with the ADA.

University of Hawaii at
Manoa

An environmental group is working on banning plastic straws at eating establishments on campus. Doing research on the implication it would have on students with disabilities. What is DCAB's advice on the topic? *If signs are posted it should be to indicate that if someone needs a plastic straw, then request one. This will keep the issue neutral and not related to a person's need due to a disability.*

2. Hosted seven (7) webinars related to ADA issues:
 - Five (5) webinars sponsored by the National ADA Network on:
 - "Inclusive Disaster Preparedness, Response, and Recovery – Getting It Right"
 - "Best Practices in Inclusive Employment Practices"
 - "Got Your Car Keys? Ready? Here We Go Again, Talking about Parking and the ADA"
 - "Creating Accessible Documents with Adobe InDesign"
 - "Access to Cultural Programs and the Arts: Serving Patrons with Disabilities"
 - Two (2) webinars sponsored by the U.S. Access Board on:
 - "Accessible Exterior Routes and Surfaces"
 - "Common Sources of Confusion in the ADA and ABA Standards"
3. Provided technical assistance to the following agencies or departments on reasonable accommodations for employees with disabilities: State Senate, Judiciary, DOE, DOH, UH–Community Colleges, and the County of Hawaii.
4. Attended one (1) County ADA Coordinators meeting and staffed one (1) State ADA Coordinators regular meeting.
5. Conducted seven (7) ADA trainings: "Service Animals in Public Accommodations" for Queen's Medical Center in Honolulu and West Oahu, "Comfort Animals and Service Animals" for Atlas Insurance Agency, FEMA Emergency Preparedness Roundtable (Hawaii and Maui), and "Basic ADA Accessibility Guidelines" presented twice for state employees.
6. Continued distributing the Communication Access cards to deaf and hard of hearing people at various points statewide. Established new distribution points at the County Departments of Motor Vehicles and Judiciary statewide.
7. Maintained current information on the ADA Coordinators secured web site and DCAB's web site by ensuring current lists of State and County ADA Coordinators were available. Streamlined the ADA Coordinators secured web site to information currently being accessed by ADA Coordinators.

Any questions regarding ADA Coordination activities should be directed to Debbie Jackson at (808) 586-8121 or debbra.jackson@doh.hawaii.gov.



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STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING January 17, 2019

TOPIC: S. 3679 - Readyng Elders and Americans with Disabilities Inclusively for Disasters Act (READI for Disaster Act)

BACKGROUND AND SUMMARY:

Disasters have steadily increased in intensity and frequency, and their threats to the community continues to grow. Last year Hawaii experienced several emergencies beginning on January 13, 2018 with the false missile alert, April with the Kauai and Oahu flooding, May 3, 2018 with the Kilauea eruptions and lava flow, to Hurricanes Lane and Olivia in August followed by high winds and rain after they were downgraded to tropical storm status. Planning has occurred statewide related to preparation and response to major disasters and requires coordinated efforts between federal, state, county, and non-governmental agencies. Disaster management only succeeds when all those affected come to the table to address the diverse needs of the community. Without a coordinated effort and multi-level effort, quite often the approximately 300,000 individuals with disabilities, older adults, children and others with access and functional needs are overlooked when disaster strikes.

DCAB has been working continually with the Hawaii Emergency Management Agency (HI-EMA) and each of the county Emergency Management and Civil Defense Agencies to include people with disabilities and others with access and functional needs in all phases of emergency management since 2005. There were some in-roads made with the establishment of a working group who developed the "2006 Interagency Action Plan for the Emergency Preparedness of People with Disabilities and Special Health Needs." The Plan was revised three times with the last version of the Plan in 2009.

The purpose of this bill is to improve inclusion of people with disabilities and older adults in preparation for, response to, recovery from, and mitigation of disasters; ensure the rights of the target population are free from discrimination on the basis of disability or age in programs and activities such as preparation, response, recovery and mitigation; ensure compliance with the ADA and the Rehabilitation Act of 1973 and other laws related to preparation for, response to, recovery from and mitigation of disasters; improve coordination among the community of people with disabilities and older Americans, government agencies, Volunteer Organizations Active in Disasters (VOADs), and other non-governmental entities in preparing and planning for, responding to, recovery from and mitigation measures; and improve outcomes for all individuals including people with disabilities and older adults who are affected by disasters, and increase community resilience in responding to disasters.

This bill was initially introduced on November 29, 2018 in the 115th Congress as S. 3679. The 116th Congress began on January 3, 2019; therefore, the bill would have to be re-

introduced to move forward. This analysis is based on the assumption that the new bill will be similar if not identical.

SECTION-BY-SECTION SUMMARY

Sections 1 to 4 – Title; Findings; Purposes; and Definitions

This section officially names the legislation, lays out the purpose of the bill and details the definition of terms used.

Section 5 – Use of Disaster Response Funds

Amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Section 615 to address the needs of people with disabilities in Federal disaster funding.

Section 6 – Training, Technical Assistance, and Research Disability and Disaster Centers

Provides financial support for developing and providing technical assistance and training to State and local emergency managers and disaster relief agencies. Will ensure the needs of people with disabilities and older Americans are addressed throughout emergency preparedness, disaster response, recovery, mitigation and community resilience.

Section 7 – Projects of National Significance

Defines terms used in this section and appropriates funds for grant projects of 3–5 year duration focusing on serving the needs of people with disabilities and older adults to develop cross-disability, consumer-directed community support services to promote inclusion, needs and rights of covered individuals to prepare for, respond to, recover from, and mitigate disasters and establish an advisory group in which half the group are members of the covered individuals.

Section 8 – National Commission on Disability Rights and Disasters

Establishes the National Commission on Disability Rights and Disasters. The Commission will study and provide recommendations on how to ensure emergency preparedness, disaster response, recovery and community resilience efforts meet the needs of people with disabilities and older Americans.

Section 9 and 10 – Review of Department of Justice Settlement Agreements and Government Accountability Office (GAO) Report

Requires the Department of Justice (DOJ) to create an Oversight Committee to review all Americans with Disabilities Act settlement agreements related to disaster response activities for the years 2005 to 2017. Also directs GAO to investigate whether past federal disaster funds have been used to ensure accessibility to emergency programs and services.

ANALYSIS:

Sections 1 – 7 are clear and straight forward. No comments or suggestions for changes.

Section 8 – National Commission on Disability Rights and Disasters

Instead of a National Commission on Disability Rights and Disasters, establish liaisons in each state to attend national meetings either in person or online and develop policies and plans within each state. The diversity of types of people with disabilities and membership of such a group will better reflect each state and develop leadership at the state level. A national commission often does not reflect what is happening at the state level and the unique natural disasters faced by each geographic location. Any funding appropriated to

establish a national commission could be appropriated to FEMA offices for a state disability specialist for disasters.

Section 9 – Review of Settlement Agreements

DOJ already has the information available. Instead of creating an advisory committee to review cases, DOJ could collect the information available, and conduct a review and analysis of the settlement agreements to point out patterns and areas that need correction.

Section 10 – GAO Report on Past Use of Disaster Funds. No comment.

STAFF RECOMMENDATION:

Staff recommends that DCAB support the bill with the above comments. Our testimony should include comments provided in the analysis section, as well as add in state activities related to people with disabilities and emergency management in which Hawaii has taken the lead in planning and implementation.

SPIN Report for January 2019

Meetings with OSEP Monitors

As staff for the Special Education Advisory Council, SPIN met twice with members of the Office of Special Education Programs (OSEP) Monitoring and State Improvement Planning Division. Their January 7-11, 2019 visit was prompted by a need for more intensive OSEP support as evidenced by longstanding poor academic performance in reading and math by Hawaii 4th and 8th grade students with disabilities, as well as lackluster progress on Hawaii's State Systemic Improvement Plan. OSEP sees SEAC as a vital partner in helping the state make overall improvements to the delivery and quality of services provided to IDEA eligible students.

Collaboration with Joanne Cashman

The January 11th SEAC meeting was also an opportunity to receive additional technical assistance from Joanne Cashman, a national expert in the Leading by Convening process endorsed by OSEP as a way to solve complex issues around students with disabilities by bringing stakeholders together to contribute to the solution. Ms. Cashman praised SEAC as being ahead of other State Advisory Panels in producing infographics—succinct and easily understood informational briefs—around topics of importance to special education. She provided templates and examples of dialogue guides as a mechanism to explain and expand the utility of the infographics to diverse stakeholder groups.

December SPIN Newsletter

SPIN has also expanded its use of infographics in its quarterly parent newsletter. In the December issue, SPIN received praise from the Chair of the Board of Education and the Superintendent by presenting the trends related to eight key indicators of student success outlined in the DOE Strategic Plan 2017-20. To view this infographic, along with infographics related to homework tips and financial literacy, go to: <http://spinhawaii.org/wp-content/uploads/2018/12/December-2018-SPIN-News-.pdf>.