



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

AGENDA

Disability and Communication Access Board General Meeting

Location: Kamamalu Building
1010 Richard Street, Conference Room 111A
Date: September 20, 2018
Time: 11:00 a.m. to 1:00 p.m.

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Minutes of July 19, 2018
- IV. Executive Director's Report
 - Budget
 - Personnel
- V. Old Business
 - A. ADA Coordination Update
 - B. Act 76 Relating to Motor Vehicle Weight Tax - Update
 - C. City and County of Honolulu – Bill 56 – Regulations regarding Private Transportation Companies and Drivers – Update
 - D. City and County of Honolulu - Handi-Van Fare Changes – Update
 - E. City and County of Honolulu – Bill 55 – Establishing a Transportation Pilot Program for the Operation of Self-Served Docked or Dockless Shared-Use Bicycles – Update
 - F. FEMA/DCAB Statewide Emergency Preparedness Workshops, August 21-24, 2018
- VI. New Business
 - A. U.S. Department of Transportation, Air Carrier Access Act, S. 2738 and H.R. 4 (Non-Companion Bills)
- VII. Committee Reports

- A. Executive Committee (refer to draft minutes of August 28, 2018)
 - Operational Expenditure Plan for Fiscal Year 2018-2019
 - Biennium Budget 2019-2021
 - B. Legislative Committee (No report)
 - C. Standing Committee on Communication Access
 - Hawaii Quality Assurance System – Update
 - Hawaii Administrative Rules, Title 11, Chapter 218, “Communication Access Services for Deaf, Hard of Hearing, and Deaf-Blind”
 - American Sign Language Interpreter Continuing Education Unit Workshop, FEMA/DCAB Interpreter Workshop, “Category 5, Level 1: The Role and Responsibility of Interpreters in Disaster Response”, August 18, 2018
 - Communication Access Card
 - 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 – Update
 - 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
 - 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 November 15, 2018, 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 require an auxiliary aid or accommodation due to a disability, please contact (808) 586-8121 (voice) or email at dcab@doh.hawaii.gov by September 17, 2018.



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MINUTES

Disability and Communication Access Board General Meeting

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

Date: September 20, 2018

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

PRESENT Monty Anderson-Nitahara, Vice Chairperson; Anthony Akamine, Pauline Aughe, Ronald Awa, Rosanna Daniel-Kanetake, Scott Fleming, Dean Georgiev, Nikki Kepo'o, Marie Kimmey, Summer Kozai, Phyllis Meighen, Pono Tokioka, Ami Tsuji-Jones, Bryant Yabui, Board Members; Francine Wai, Debbie Jackson, Kristine Pagano, Kirby Shaw, Duane Buote, Bryan Mick, Colin Whited, Staff

ABSENT: Bill Bow, Chairperson; Violet Horvath, Misella Tomita, Board Members

GUESTS: Barbara Fischlowitz-Leong, Peter Fritz, Naomi Fujii, Leanne Gillespie, Oscar Hernandez, Jason Kim, Xai Lee, Karin Riedel, TeriAnn Shigeoka

**SIGN LANGUAGE INTERPRETER/
COMPUTER ASSISTED**

NOTETAKER: Mala Arkin, Michele Morris, Sabina Wilford

- I. The meeting was called to order at 11:08 a.m. by Vice-Chairperson Monty Anderson-Nitahara.

New member Ron Awa was introduced, as he was not able to attend the July meeting. Mr. Awa indicated that he is an architect who served many years ago when the Architectural Access Committee was established, one of the predecessor agencies to the Disability and Communication Access Board (DCAB).

- II. Minutes of the July 19, 2018 meeting were approved as circulated (M/S/P Kepo'o/Kimmey).

- III. Executive Director's Report

Francine Wai reported that the issue of the current year Expenditure Plan and the Biennium Budget request will be discussed in the Executive Committee Report.

She reported that there were no personnel changes. The position descriptions of the Facility Access Specialists are being updated and the position description of the new Facility Access Specialist position will be submitted for approval once the current positions are updated. We are also seeking cost estimates for a work station

modification for the new position and hope to advertise for the new position at the beginning of the next calendar year.

Francine Wai also announced that two staff, Kirby Shaw and David Poe, will be attending the Pacific ADA Center's ADA Update Conference in Los Angeles, California. In addition, she will be on vacation from September 21 (tomorrow) through September 28, 2018. Debbie Jackson will be in charge of the office during that time.

IV. Old Business

A. ADA Coordination Update

Members were referred to the written report mailed to all members. Public member Peter Fritz noted that there is an ADA compliance issue with documents that were created in PDF/A that are not accessible. He specifically mentioned documents by the Department of Land and Natural Resources (DLNR) but indicated that the issue is not limited to DLNR and also mentioned the Department of Taxation. He asked what DCAB is doing to correct this and that he has brought up the issue before. He noted that correcting these problems and establishing policies should be part of DCAB's ADA Coordination effort.

B. Act 76 Relating to Motor Vehicle Weight Tax

Legislative Committee Chairperson Rosanna Daniel-Kanetake introduced Naomi Fujii, a parent of a child with a disability, who brought to the attention of DCAB staff the issue of additional costs in the motor vehicle weight tax when a family modifies its vehicle, typically a van, with a lift. As a result, DCAB approached a State Senator to introduce legislation to exempt the marginal cost of the adapted lift from the motor vehicle weight tax. Legislation was introduced and passed on the first attempt at introduction. Rosanna Daniel-Kanetake read a letter to Naomi Fujii thanking her for raising the issue. Ms. Fujii was presented with a lei and also an original copy of the act signed by the Governor.

C. City and County of Honolulu – Bill 56 – Regulations regarding Private Transportation Companies and Drivers - Update

Bryan Mick reported that Bill 56 is no longer under consideration as the two-year period since its introduction has passed. DCAB's concern with the bill was a proposed amendment which was never adopted that would have allowed transportation network companies such as Uber and Lyft to impose 'a surcharge for vehicles equipped for wheelchairs and other necessary medical equipment.' Several related bills have since been introduced, none of them contain similar language. Staff is monitoring the bills to be sure no one proposes such language be added to one of the bills via an amendment. This item will be removed from the Board agenda unless there is some change that happens.

D. City and County of Honolulu - Handi-Van Fare Changes – Update

Bryan Mick reported that Bill 66 was defeated on first reading at the Honolulu City Council, which is very rare. DCAB submitted testimony in opposition as the bill did not set the fares at the levels the Rate Commission had recommended and DCAB endorsed, \$2.25 for a single ride and the creation of a low income rate of \$1.00 per ride. Instead, Bill 66 proposed a rate of \$2.50 and no low income rate. Staff expects another bill will be introduced shortly by either the Administration or the Council.

E. City and County of Honolulu – Bill 55 – Establishing a Transportation Pilot Program for the Operation of Self-Served Docked or Dockless Shared-Use Bicycles – Update

Bryan Mick reported that although Bill 55 has not been scheduled for a committee hearing, several similar bills regarding docked and dockless alternative transportation systems have been slowly progressing. Each time one is scheduled for a hearing DCAB testifies that the bill should not establish a grace period where a company is able to remove a vehicle that is blocking accessibility without penalty, but rather the system should be designed to prevent that from occurring.

F. FEMA/DCAB Statewide Emergency Preparedness Workshops, August 21-24, 2018

Debbie Jackson indicated that DCAB was fortunate to have an intern in public administration and emergency preparedness this semester who assisted in setting up four roundtable workshops in the community with visiting FEMA Region IX staff from their Access for People with Disabilities or Access and Functional Needs office on emergency preparedness. Unfortunately, the timing of the sessions with Hurricane Lane forced us to cancel the Maui and Big Island sessions. There were thirty-seven people on Oahu and thirty one people on Kauai in attendance. FEMA hopes to reschedule the meetings on Maui and the Big Island.

V. New Business

A. U.S. Department of Transportation, Air Carrier Access Act, S. 2738 and H.R. 4 (Non-Companion Bills)

Members were referred to the two staff summaries that were sent. Kirby Shaw explained that House Resolution (HR) is a large reauthorization bill of the Federal Aviation Administration which contains one Subtitle B that impacts people with disabilities in areas such as conducting research on travelers with disabilities, in-cabin wheelchair constraint systems, a bill of rights, civil penalties for passenger harm, assistance for persons with disabilities, and service animal harmonization. All the amendments are positive and the section on service animals is currently being addressed by the U.S. Department of Transportation (DOT) via an Advance Notice of Proposed Rulemaking on which DCAB submitted comments. The Board voted to support the staff's recommendations on HR 4 as presented (M/S/P

Kepo'o/Aughe). SB 2738 proposes to amend the DOT rules and specifically addresses only service animal behavior training. Staff noted that its recommendation is to support amending the definition of service animal to match the ADA and permitting documentation. However, with respect to a penalty, staff recommended that federal prison time for an offense of animal falsification or behavior appeared to be excessive and recommended only a monetary penalty of up to \$1,000. Public comment from Peter Fritz suggested consideration of community service as a possible penalty. The Board voted to support testimony consistent with staff recommendation with the amendment of community service as a penalty option (M/S/P Aughe/Daniel-Kanetake). Finally, staff noted that there are other bills, including possible companion bills, that may deal with the same issues. Hence, the Board voted to provide DCAB testimony on any similar proposed bills or rules consistent with the positions taken above (M/S/P Kepo'o/Yabui).

VI. Committee Reports

A. Executive Committee (refer to draft minutes of August 28, 2018)

Vice Chairperson Monty Anderson-Nitahara referred members to the draft Executive Committee minutes that were mailed to all members. The Committee took action on two items (1) approval of the Expenditure Plan for the current fiscal year 2018-2019 as well as (2) the proposed Biennium Budget requests for fiscal biennium 2019-2021. The attachments to the minutes reflect the Expenditure Plan as explained by staff. The Biennium Budget request contains four requests, three of which involve money and personnel and the last is simply housekeeping with account codes. The decisions on the budget requests are a work in progress and the final decision is not likely to be made until the Executive Budget is finalized in early January. The Board voted to ratify the actions of the Committee (M/S/P Kimmey/Akamine).

B. Legislative Committee

Committee Chairperson Rosanna Daniel-Kanetake noted that there has been no Legislative Committee meeting yet this year. The Legislative Committee will begin meeting weekly in late January through mid-April. There are five members so far: Monty Anderson-Nitahara, Dean Georgiev, Anthony Akamine, Violet Horvath, and Rosanna Daniel-Kanetake. If you wish to join the Committee, please let her know, as more members are welcome.

C. Standing Committee on Communication Access

Committee Chairperson Nikki Kepo'o reported that the Committee met once since the last full Board meeting.

Regarding the Hawaii Quality Assurance System (HQAS), there are currently twenty-eight interpreters enrolled in the HQAS Continuing Education Program. There are no interpreters on a continuing education unit (CEU)

extension. DCAB administered one HQAS test in August and are awaiting the results of that test. Another HQAS test will take place next week.

Regarding the Hawaii Administrative Rules, Title 11, Chapter 218, "Communication Access Services for Deaf, Hard of Hearing, and Deaf-Blind" on August 15, 2018, the proposed Communication Access rules, draft memorandum, and draft Small Business Impact Statement were sent to the Deputy Attorney General for approval to proceed with rulemaking. DCAB has not yet received a response from the Attorney General's Office.

Regarding the American Sign Language (ASL) Interpreter Continuing Education Unit Workshops, DCAB hosted a CEU workshop for ASL interpreters on August 18, 2018 at the Hawaii School for the Deaf and the Blind. It featured a presentation by FEMA entitled, "The Role and Responsibility of Interpreters in Disaster Response." A limited number of airfare scholarships were available to interpreters from the Neighbor Islands. Nearly thirty interpreters attended the workshop, which was timely considering Hurricane Lane happening the next week.

Regarding the DCAB Communication Access Card, staff finalized the Communication Access Card. A press release went out yesterday to notify the public that the card is now available statewide. It can be picked up at different locations including DCAB, the Comprehensive Service Center, and Vocational Rehabilitation Offices. A total of one thousand two hundred cards have been sent to these locations. A full list of locations is posted on DCAB's web site. An ASL video about the card will also be posted on the DCAB web site. Staff member Colin Whited provided more details about the card and distributed a copy to members. He emphasized that the card is not an identification card. The cards are not numbered, and there will be no registry maintained by DCAB of who has a card. The card also contains tips of effective communication to assist the recipient when trying to provide a method to overcome a communication barrier.

Finally, earlier this month, the Open Movie Captioning bill was sent to the Department of Health for inclusion in the Governor's Package. The bill is identical to the bill drafted last year with the exception of dates.

D. Standing Committee on Facility Access

Committee Chairperson Marie Kimmey reported that the Committee met in the morning prior to the General Board meeting. The Facility Access Unit reviewed two hundred thirty-seven projects from July 1, 2018 to September 19, 2018, of which one hundred thirty five were new submittals. We are on track with fees collected.

The annual Disability Access Conference is expected to be held in the beginning of May of next year. In response to feedback received from the conference evaluations, staff has asked future speakers to provide more advanced presentations. In addition to the annual conference the Unit staff has implemented a new basic training series with introductory information intended to better prepare individuals for the annual conference at a more advanced level.

The development of the new Facility Access Unit database has started. DCAB staff is working with the developers with the hope of launching the new web-based system during the first half of 2019.

The Committee took action on two Interpretive Opinions. Interpretive Opinion 2018-02 was approved to clarify the allowable locations for shower controls at roll-in showers where a lavatory is overlapping the adjacent shower clear floor space. Interpretive Opinion 2018-03 regarding the required design conditions for ramps at doorways was deferred, as the Committee could not come to a decision about the issue of a threshold and ramp at a doorway because the situation was different depending on whether there was a door present or not. The Committee asked staff to separate the Interpretive into two separate opinions for reconsideration at the next meeting.

E. Standing Committee on Parking

Committee Chairperson Pauline Aughe reported that in July and August there were 4,936 placards and 278 special license plates issued. Of the placards, 1,211 were temporary and 3,725 were long term. Of the long-term placards, 1,777 were renewals. The renewal rate was sixty-two percent.

In terms of public education, quality assurance, and outreach, DCAB will be running a public service announcement in the four counties' newspapers about proper use of disability parking permits and accessible stalls, tentatively slated to run in October.

DCAB's two parking bills that did not pass the 2018 legislative session will be combined and reintroduced as a single bill. 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 purchase, and (3) reword the definition of "person with a disability" to remove gray areas that cause physicians and advance practice registered nurses to improperly certify applicants.

For the placard retrieval effort, DCAB mailed 3,192 death retrieval letters to date, with another 4,500 to go out over the next two months. The statistics so far are seventeen percent were letters undeliverable, five percent responses were without a placard (lost or thrown out), and twentyfour percent placards were returned. Death retrieval letters are mailed to the estates of deceased permittees at their last address on record.

Staff is waiting for final printing and authorization to place posters about the parking program on the City and County of Honolulu buses, hopefully in October. Marie Kimmey asked if we could pursue a similar effort on the neighbor islands. Staff will follow up once the Oahu outreach effort has been completed.

F. Special Parent Information Network

Phyllis Meighen reported as liaison to the SPIN Advisory Committee. Nikki Kepo'o commented on the issue of bullying in the classroom. She indicated that if both children involved are disabled, often the issue is not focused on the incident, but rather the fact that the students are disabled and are both considered victims as a result of their disability. Her suggestion is to involve experts in disability issues to ensure that the assessment of the situation is fair and appropriate. A written report is attached to the minutes.

VIII. Open Forum

Guest Peter Fritz raised two issues for DCAB's consideration and follow up relating to inaccessible documents as well as noncompliant state meeting notices. He indicated that a Request for Information (RFI) was issued that was not accessible. He suggested that DCAB contact the Office of Enterprise Technology Services regarding the RFI. He also mentioned the same regarding a Hawaii Authority on Rapid Transportation Board meeting notice. He secondly indicated that there should be better guidance on notification to attend events or meetings and how to request an accommodation. He stated that he believes such guidance falls within DCAB's scope of responsibility. He raised the issue that notices often put a specific date when a request for an accommodation or auxiliary aid or service is requested. The date listed may be prior to the posting date of the notice, which makes it impossible to meet the deadline. In addition, missing the date set on the notice does not alleviate the entity's obligation to try to meet the request. He referenced the language of the State Developmental Disabilities Council as a good example.

IX. Next Meeting: The next meeting is scheduled for November 15, 2018 at 1010 Richards Street in room 118, beginning at 11:00 a.m.

X. The meeting adjourned at 12:27 p.m.

NOTE: All votes were unanimous unless otherwise noted.

Respectfully submitted,



FRANCINE WAI



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Disability and Communication Access Board General Meeting ADA Coordination Update September 20, 2018

Since the last meeting on July 19, 2018, ADA activities of all DCAB staff (July and August 2018) included:

1. Technical assistance (TA) relating to programs and services provided by all DCAB staff. Examples of significant TA to the following State and County ADA Coordinators were:

Department/Agency	Issue and TA provided
Office of Planning	Could DCAB review wording they have in their contracts to ensure the contractor knows to comply with all federal and state laws including the ADA and Section 508. <i>Wording reviewed and suggestions were made. Also recommended they contact the Department of Accounting and General Services for language they suggest for their requests for proposals and contracts.</i>
Libraries	Their elevator is broken. How do they provide services available on the second floor to patrons? <i>Need to provide it through program access. If a patron asks for material available on the second floor have staff retrieve the information.</i>
Transportation	A consumer requested accessible transportation but did not receive it. There was only one available lift equipped van on that service. How can they provide services in a situation like this? <i>Suggested having a Memorandum of Agreement with a private company that has accessible vans as back up. Use that van service if the one vehicle available is not in service. Another option is to use a taxi service with lift equipped vehicles to provide the service and pay for the taxi for the individual.</i>
University of Hawaii at Manoa	A graduate student provided verification of the need for a service animal from a radiologist. Is that acceptable? This request is for housing at the University. <i>Verification needs to be from a healthcare professional that knows the individual and can attest to the person's need for the service animal. The ADA does not state what type of healthcare professional can provide this service. Suggested the University follow up with the physician on the Mainland to see how well they know the person and how the service animal meets those needs. Get permission from the student prior to contacting the physician.</i>

the service animal meets those needs. Get permission from the student prior to contacting the physician.

Aloha Stadium

A customer bought two tickets for a concert for his two daughters who use wheelchairs and have developmental disabilities. Request Personal Care Attendants for his daughters to go to the concert. Is this an accommodation that the Stadium must provide?

The customer should have purchased two tickets for his daughters and two tickets for the attendants to go to the concert with his daughters. Providing personal care services for the concert is not an accommodation that the state is obligated to provide.

2. Hosted seven (7) webinars related to ADA issues:
 - Five (5) webinars sponsored by the National ADA Network on:
 - “Disaster Response Efforts of the Department of Homeland Security”
 - “Review of the Greatest Hits of ADA Employment Law and Case Update”
 - “How to Upgrade Agency Policies for the Revised Section 508 Regulations”
 - “Reflection of 28 Years of the ADA and What We Have Learned”
 - “Getting it Wrong – An After Action Report on Major Disasters in 2017 – 2018”
 - Two (2) webinars sponsored by the U.S. Access Board on:
 - “Transportation Facilities”
 - “Open Questions and Answers”
3. Provided technical assistance to the following agencies or departments on various issues related to access to programs and services: Governor’s Office; Departments of Accounting and General Services – Aloha Stadium, Defense – Hawaii Emergency Management Agency, Education - Libraries, Health – Executive Office on Aging; University of Hawaii Community Colleges, University of Hawaii at Manoa; and the Counties of Maui, Hawaii and Kauai.
4. Provided technical assistance to the following agencies or departments on reasonable accommodations for employees with disabilities: Departments of Education, and Health; University of Hawaii at Manoa; and the County of Hawaii.
5. Staffed one (1) State ADA Coordinators Orientation and one (1) State ADA Coordinators meeting.
6. 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.
7. Provided technical assistance to one hundred sixty-eight (168) callers from July and August 2018 on issues related to the ADA.

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



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STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING September 20, 2018

TOPIC: S. 2738 – To amend Title 49, United States Code, to require air carrier passengers with service animals to adhere to a standard of service animal behavior training

SUMMARY:

S. 2738 would amend the Air Carrier Access Act (ACAA) definition of service animal to have the same meaning as the term as defined under the Americans with Disabilities Act (ADA).

It requires the U.S. Department of Transportation (DOT), in consultation with the Department of Justice (DOJ), the Department of Veterans Affairs (VA), representatives of air carriers, and private industry, to establish a standard of service animal behavior training that an individual with a disability shall adhere to in seeking accommodation involving a service animal under the ACAA.

It provides that an individual who knowingly and willfully makes a false statement for the purpose of seeking an accommodation involving an animal from an air carrier that the animal is a service animal trained to do work or perform tasks for the benefit of an individual with a disability or that the animal's training meets the standard of service animal behavior training mentioned above could be sentenced up to five years in federal prison.

ANALYSIS:

Conforming the ACAA definition of service animal with the ADA definition would make it easier for consumers, advocates, and private companies to comply with the law because the uncertainty as to what kind of animal can be transported in an airline cabin with the disabled handler is narrowed to a dog (or miniature horse) that has been trained. On the other hand, individuals with mental health disabilities will no longer be able to travel with their emotional support animals in the airline cabin, which could prevent many of them from flying at all. However, the amendment will result in safer flights for all passengers and flight crews.

Development of a standard of service animal behavior training is desirable, especially for service animals that will travel in cabin with their handlers. No barking, biting, growling, lunging, attacking, crotch/butt sniffing and other unwelcomed behaviors should be part of the standard. However, it may be difficult to ensure that a claimed service animal meets the training standard prior to boarding, unless the handler can present documentation that the animal passed a behavioral course/test. Note that the DOJ's ADA regulations do not require any certification of service animals.

Proving that a person made a false statement will be very difficult. However, enforcement may be more appropriate if an animal demonstrates during a flight that it was not trained. Any time in federal prison seems excessive as a penalty. However, a penalty of a fine up to \$1,000 may deter those who would otherwise have an untrained animal as a service animal.

STAFF RECOMMENDATION:

Staff recommends that DCAB submit testimony in support of (1) amending the ACAA definition of service animal to match the ADA definition, (2) permitting documentation with a standard of service animal behavior, and (3) providing up to a \$1,000 fine as a penalty for individuals who make a false statement that an animal is a service animal to obtain an accommodation from an air carrier or whose service animal misbehaves on a plane.



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STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING September 20, 2018

TOPIC: H.R. 4 – Federal Aviation Administration Reauthorization Act of 2018
Subtitle B – Aviation Consumers with Disabilities

SUMMARY:

H.R. 4 reauthorizes programs of the Federal Aviation Administration (FAA). Subtitle B of the Act, Aviation Consumers with Disabilities, amends the seven sections below.

Section 441. Select Subcommittee.

Creates a Select Subcommittee For Aviation Consumers With Disabilities tasked with identifying the disability-related access barriers encountered by passengers with disabilities; determining the extent to which the programs and activities of the U.S. Department of Transportation (DOT) are addressing the barriers identified above; recommending consumer protection improvements related to the air travel experience of passengers with disabilities; advising the DOT Secretary with regard to the implementation of the Air Carrier Access Act (ACAA); and submitting a report to DOT, including any recommendations for legislation, regulations, or other actions that the select subcommittee considers appropriate.

Section 442. Aviation Consumers with Disabilities Study.

Requires the U.S. Comptroller General to conduct a study that includes (1) a review of airport accessibility best practices for individuals with disabilities, including best practices that improve infrastructure facilities and communications methods, including those related to wayfinding, amenities, and passenger care; (2) a review of air carrier and airport training policies related to the ACAA; (3) a review of air carrier training policies related to properly assisting passengers with disabilities; and (4) a review of accessibility best practices that exceed those recommended under the Architectural Barriers Act of 1968; the Rehabilitation Act of 1973, the ACAA, and the Americans with Disabilities Act (ADA). The Comptroller General must submit a report to the DOT Secretary and Congress.

Section 443. Feasibility Study on In-Cabin Wheelchair Restraint Systems.

Requires the DOT Secretary, in consultation with the U.S. Access Board, aircraft manufacturers, and air carriers, to conduct a study to determine (1) the feasibility of in-cabin wheelchair restraint systems; and (2) if feasible, the ways in which individuals with significant disabilities using wheelchairs, including power wheelchairs, can be accommodated with in-cabin wheelchair restraint systems.

Section 444. Airline Passengers with Disabilities Bill of Rights.

Requires the DOT Secretary to develop an "Airline Passengers with Disabilities Bill of Rights" that describes the basic responsibilities of covered air carriers, including their

employees and contractors, under the ACAA; and the protections of air passengers with disabilities under the ACAA. The Bill of Rights must include, at a minimum, plain language descriptions of responsibilities and protections provided in law related to (1) the right of passengers with disabilities to be treated with dignity and respect; (2) the right of passengers with disabilities to receive timely assistance, if requested, from properly trained personnel of covered carriers and their contractors; (3) the right of passengers with disabilities to travel with and stow wheelchairs, mobility aids, and other assistive devices, including necessary medications and medical supplies; (4) the right of passengers with disabilities to receive seating accommodations, if requested, to accommodate a disability; (5) the right of passengers with disabilities to speak with a complaint resolution officer or to file a complaint with a covered carrier or the DOT; and (6) the right of passengers with disabilities to communications in an accessible format as required under Federal regulations.

Section 445. Civil Penalties Relating to Harm to Passengers with Disabilities.

Increases the civil penalty for a violation of the ACAA to an amount not to exceed three times the maximum civil penalty otherwise allowed if the violation involves injury to a passenger with a disability; or damage to the passenger's wheelchair or other mobility aid.

Section 446. Harmonization of Service Animal Standards.

Requires the DOT Secretary to conduct a rulemaking proceeding to define the term "service animal" for purposes of air transportation; and to develop minimum standards for what is required for service and emotional support animals carried in aircraft cabins. The rulemaking must consider:

- (1) whether to align the definition of "service animal" with the definition of that term in regulations of the Department of Justice implementing the ADA;
- (2) reasonable measures to ensure pets are not claimed as service animals, such as—
 - (A) whether to require photo identification for a service animal identifying the type of animal, the breed of animal, and the service the animal provides to the passenger;
 - (B) whether to require documentation indicating whether or not a service animal was trained by the owner or an approved training organization;
 - (C) whether to require, from a licensed physician, documentation indicating the mitigating task or tasks a service animal provides to its owner; and
 - (D) whether to allow a passenger to be accompanied by more than one service animal;
- (3) reasonable measures to ensure the safety of all passengers, such as—
 - (A) whether to require health and vaccination records for a service animal; and
 - (B) whether to require third-party proof of behavioral training for a service animal;
- (4) the impact additional requirements on service animals could have on access to air transportation for passengers with disabilities; and
- (5) if impacts on access to air transportation for passengers with disabilities are found, ways to eliminate or mitigate those impacts.

Requires the DOT Secretary to issue a final rule not later than eighteen months after the date of enactment of H.R. 4.

Section 447. Regulations Ensuring Assistance for Individuals with Disabilities in Air Transportation.

Requires the DOT Secretary to (1) review, and if necessary revise, applicable regulations to ensure that individuals with disabilities who request assistance while traveling in air transportation receive dignified, timely, and effective assistance at airports and on aircraft from trained personnel; and (2) review, and if necessary revise, applicable regulations

related to air carrier training programs for air carrier personnel, including contractors, who provide physical assistance to passengers with disabilities.

ANALYSIS:

The amendments are positive for persons with disabilities who travel by air. Section 443 would eliminate barriers to air travel for many wheelchair users if they could travel safely while seated in their own wheelchairs. However, the stresses of air travel (turbulence and take-off/landing) may likely exceed the strength of common wheelchairs and require the installation of mitigation equipment on airplanes and individual wheelchairs.

Staff notes that the service animal issues raised under the section 446 amendment is currently being addressed by DOT via an Advanced Notice of Proposed Rulemaking, on which DCAB submitted comments.

STAFF RECOMMENDATION:

H.R. 4 passed out of the U.S. House of Representatives. The U.S. Senate has not taken up the bill. Staff recommends that DCAB submit letters to Senators Hirono and Schatz to request their support for the inclusion in the Senate legislation of the same amendments contained in Subtitle B of H.R. 4 with the above comments.

SPIN Report for September 2018

Network Health and Effectiveness Workshop

On September 18th Susan Rocco attended this workshop offered by the Hawaii Community Foundation and attended by various community groups, including the Hawaii Coalition for Children with Disabilities (HCCD). The focus of the workshop was helping local networks/coalitions strengthen their organization through processes and goal setting. In addition to SPIN, workshop attendees from HCCD represented the Developmental Disabilities Council, Leadership in Disability and Achievement Hawaii, Hawaii Children's Action Network and the Special Education Advisory Council.

SPIN's Conference Planning

SPIN's Advisory Committee will be finalizing a date for the 2019 SPIN Conference at their meeting on September 20th. The UH Campus Center has been the site for the last 25 annual conferences, and the Committee wants to continue at this venue; however, there is some uncertainty regarding an April conference date due to pending renovation of the Campus Center complex. An alternate date of February 23rd has been set aside as a back-up to April 13th.

Oahu Transition Teachers Meeting

Amanda Kaahanui co-presented "Be Engaging" —a workshop on positive parent engagement for transition-aged students—to 80 high school transition teachers and related staff at a quarterly meeting co-hosted by the Department of Education, the Division of Vocational Rehabilitation, the Developmental Disabilities Division, and the State Council on Developmental Disabilities.

Revisions to Administrative Rules Regarding Bullying of Students with Disabilities

SPIN is involved in monitoring revisions to Chapter 19—DOE's student misconduct administrative rules—and Chapter 41—DOE's Civil Rights policy and complaint procedure—and preparing testimony for SEAC to present at Board of Education meetings. [SEAC's testimonies](#) dated September 6th asked for 1) more specificity in timelines for reporting bullying incidents to parent, 2) copies of investigative reports be given to parents and 3) the inclusion of action steps needed to determine if disability harassment denied a free and appropriate public education (FAPE) to the student.