



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 Richard Street, Conference Room 111A
Date: July 19, 2018
Time: 11:00 a.m. to 1:00 p.m.

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Minutes of May 17, 2018
- IV. Executive Director's Report
 - Budget
 - Personnel
- V. Old Business
 - A. ADA Coordination Update
 - B. Handi-Van Fare Changes – Update
 - C. Department of Agriculture, Animal Quarantine Division, Proposed Hawaii Administrative Rules, Chapter 4-29, “Dogs, Cats, and Other Carnivores” – Update
 - D. 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
 - E. City and County of Honolulu – Bill 56 – Regulations regarding Private Transportation Companies and Drivers – Update
- VI. New Business
 - A. U.S. Department of Transportation, Advance Notice of Proposed Rulemaking (ANPRM) Traveling by Air with Service Animals
 - B. ADA Title III Movie Captioning and Audio Description

- C. Approval of Plan of Action for Fiscal Year 2018-2019
 - D. Appointment of Committees
 - E. Board Meeting Schedule for Fiscal Year 2018-2019
- VII. Committee Reports
- A. Executive Committee (No report)
 - 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 Workshops
 - Communication Access Card
 - Other Communication Activities from the Plan of Action FY 2017-2018
 - D. Standing Committee on Facility Access
 - Document Reviews – Update
 - Other Facility Access Activities from the Plan of Action FY 2017-2018
 - E. Standing Committee on Parking
 - Memorandums of Agreement with the Counties
 - Parking Program Issuance and Statistics – Update
 - Public Education Outreach Efforts – Update
 - Other Parking Activities from the Plan of Action FY 2017-2018
 - F. Special Parent Information Network
 - Update of Activities for Informational Purposes Only
- VIII. Open Forum
- IX. Next Meeting: The next meeting is scheduled for September 20, 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.

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MINUTES

Disability and Communication Access Board General Meeting

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

Date: July 19, 2018

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

PRESENT: Bill Bow, Chairperson; Anthony Akamine, Monty Anderson-Nitahara, Pauline Aughe, Rosanna Daniel-Kanetake, Dean Georgiev, Violet Horvath, Nikki Kepo'o, Marie Kimmey, Summer Kozai, Phyllis Meighen, Pono Tokioka, Misella Tomita, Ami Tsuji-Jones, Bryant Yabui, Board Members; Francine Wai, Debbie Jackson, Kristine Pagano, Kirby Shaw, Duane Buote, Bryan Mick, Staff

ABSENT: Ron Awa, Scott Fleming, Board Members

GUEST: Jimbo Perry

SIGN LANGUAGE

INTERPRETERS: Heather Benjamin and Michele Morris

- I. The meeting was called to order by Chairperson Bill Bow at 11:25 a.m.
- II. Minutes of the May 17, 2018 meeting were approved as circulated (M/S/P Kimmey/Kepo'o).
- III. Executive Director's Report

Francine Wai reported that we have hired Sean Shinshiro, in June as a Program Support Technician in the parking program. We are currently fully staffed. We are beginning the process of writing a position description for the newly approved Facility Access Specialist position in the budget and, at the same time, are updating the position descriptions for the current Facility Access Specialists. As noted in the End of the Year Report, we are in the process of updating all the position descriptions in the office, including the physical requirements of the positions, and are over halfway through completing all the paperwork.

Francine Wai reported that two staff traveled out of state recently. Duane Buote attended the National ADA Symposium in June and Debbie Jackson attended a conference on emergency preparedness for persons with disabilities in May. In September, we will be sending two staff, Kirby Shaw and David Poe, to the Pacific ADA Symposium in Oakland and Los Angeles, respectively.

With respect to the budget, Francine Wai noted at the last meeting that our budget was approved with the addition of a Facility Access Specialist in our special fund. Departments were assessed a five percent restriction on discretionary funds, but the Department did not choose to impose a restriction on DCAB. Staff will begin the paperwork so that we can hire a position hopefully by the approved date of January 1, 2019.

Upon approval of the Plan of Action, staff will prepare an Expenditure Plan for fiscal year 2018-2019 for the Executive Committee's approval prior to the September Board meeting.

IV. Old Business

A. ADA Coordination Update

Members were forwarded the ADA Coordination Update by Debbie Jackson. There were no questions on the report.

B. Handi-Van Fare Changes – Update

Bryan Mick reported that the Rate Commission formally adopted a recommendation to increase the Handi-Van rates by 25 cents to \$2.25, effective January 1, 2019. It also recommended the creation of a low income category with a rate of \$1.00 per ride, with no limit on the number of rides a user may take at this reduced rate. Technically this recommendation should go to the Mayor, who then submits it to the Council with or without his amendments. However, the Rate Commission bypassed the Mayor and already presented its recommendation to the Honolulu City Council's Transportation Committee. The Mayor is still reviewing the Rate Commission's recommendations and will presumably submit a bill to the City Council, which ultimately sets the rates.

C. Department of Agriculture, Animal Quarantine Division, Proposed Hawaii Administrative Rules, Chapter 4-29, "Dogs, Cats, and Other Carnivores" – Update

Debbie Jackson updated members on the Department of Agriculture's administrative rules. DCAB had taken a position to recommend changes relating to the definition of service animals and separation of the animal from the handler, as well as to support the proposed changes regarding housing at the quarantine station. The Board of Agriculture had its public hearing and did not accept any additional changes recommended by DCAB. They offered to work with DCAB prior to the next public hearing. However, staff was disappointed because this is the second round of public hearings where the same comments were offered with the same response from the Department.

D. 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 this bill was referred to the Budget Committee. It creates a pilot program for docked bike share or dockless bike share, and fixes its duration from twelve to twenty-four months. That would seem to possibly conflict with the existing docked bike share system, Biki, either by creating a direct competitor for it, or if Biki is designated as the pilot program, forcing it to terminate in twenty-four months. A similar resolution asking for the City to establish a dockless scooter pilot program had been temporally deferred in committee as the Department of Transportation Services has informed the City Council they were forming a task force to examine dockless transportation services. DCAB staff has testified that dockless systems may impede the accessibility of existing infrastructure such as sidewalks and entrances, and has offered to be a member of the task force. We will continue to raise concerns of accessibility whenever appropriate. The Board voted to support testimony on this, and similar bills, to oppose any blockage of the public right-of-way, including tripping hazards, as well as any grace time for a blockage to occur (M/S/P Kepo'o/Meighen).

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

Bryan Mick reported that there have been several bills that would either extend taxi regulations to cover transportation network companies (TNCs) such as Uber and Lyft, or to eliminate existing regulations on taxicabs so that they could operate like TNCs. An example of this would be to eliminate the cap on taxi fares and allow them to institute surge pricing during periods of high demand. DCAB staff objected to a proposed amendment to this particular bill which would have authorized a private transportation company to establish a reasonable surcharge for vehicles equipped for wheelchairs and other necessary medical equipment. That amendment was not adopted nor has similar language been proposed in any subsequent bills. DCAB may want to suggest to the City Council that because it's still an undecided question as to how the ADA applies to TNCs, the City Council may want to impose accessibility requirements as part of these proposed revisions. An example would be to require TNCs to have at least one accessible vehicle available at all times.

V. New Business

A. U.S. Department of Transportation, Advance Notice of Proposed Rulemaking (ANPRM) Traveling by Air with Service Animals

Francine Wai reported that DCAB submitted testimony to the U.S. Department of Transportation in response to their solicitation of comments on service animals on airplanes in consideration of amending the Air Carrier Access Act (ACAA). A draft of the letter was sent to all Board members for input and several members, Summer Kozai and Pauline Aughe offered comments. The essence of the letter was to recommend that ACAA use the same definition of service animal as the Department of Justice (DOJ) for consistency. The letter noted the unique nature of an airline where removal of the animal is not possible once the flight commences, unlike a land facility. DCAB supported requiring the animal to fit in the person's seated area on the floor. Given Hawaii's experience with quarantine documentation, DCAB was

not opposed to documentation to travel. DCAB took no position on what type of animals, if any, should be allowed under the category of emotional support animals, but noted that its outreach to organizations working with service animals did not support expansion to service animals. The letter was signed by Chairperson Bill Bow. The full Board ratified the DCAB letter (M/S/P Kimmey/Anderson-Nitahara).

B. ADA Title III Movie Captioning and Audio Description

Francine Wai reported that the DOJ's rule that select movie theaters must comply with a requirement to provide closed movie captioning and audio description by June 2, 2018. Peter Fritz as a member of the public suggested this as a topic for the Board meeting. The members discussed that DCAB is initiating legislation to continue open captioning with no sunset date, going beyond the federal requirement. Pono Tokioka provided a short background on the state legislation initiated by his father (Rep. James Tokioka) because the deaf community uniformly prefers open captioning. Several Board members and staff described the concerns that the goggles do not work for many people (i.e., those with autism who cannot tolerate the feeling or children with smaller stature) or had other problems of incorrect captioning or insufficient glasses. However, the federal rule still is in effect and compliance with the rule is separate than our efforts to seek open captioning. The Board voted to send a letter to the movie theaters to ask for information on how they are meeting the June 2, 2018 deadline and asking how they are resolving some of the problems presented to us (M/S/P Aughe/Kimmey). The pursuit of open captioning legislation will be a separate issue handled by the Standing Committee on Communication Access and the Legislative Committee. The Board hopes to have Increased deaf participation in the legislative process on this issue next year.

C. Approval of Plan of Action for Fiscal Year 2018-2019

The Board ratified the Plan of Action as presented at the Planning Meeting earlier in the day (M/S/P Kepo'o/Akamine).

D. Appointment of Committees

A list of Committee members will be mailed to all members shortly. Staff is confirming the choices for members, along with Committee Chairpersons under the direction of Board Chairperson Bill Bow.

E. Board Meeting Schedule for Fiscal Year 2018-2019

A list of Board meetings for fiscal year 2018-2019 was mailed to all members.

VI. Committee Reports

A. Executive Committee

There is no report. However, the Committee will meet before the next Board meeting to approve an Expenditure Plan for the year, a proposed Biennium Budget, at minimum.

B. Legislative Committee

Chairperson Rosanna Daniel-Kanetake distributed a Legislative Summary for the 2018 Legislature. The summary listed those bills that DCAB monitored that were enacted.

C. Standing Committee on Communication Access

Chairperson Nikki Kepo'o reported that the Committee met twice since the last full Board meeting. With respect to the administrative rules, proposed amendments to the rules were approved by the Board in May and staff is preparing documents for approval by the Deputy Attorney General to proceed with public hearing. Finally, the Committee is in the process of finalizing a Communication Access Card to increase the capacity of individuals who are deaf or hard of hearing to indicate their communication needs. She also announced that there are currently twenty-seven interpreters enrolled in the CEU program. DCAB is planning a continuing education unit (CEU) workshop for American Sign Language interpreters on August 18, 2018 to feature the Federal Emergency Management Agency on "The Role and Responsibility of Interpreters in Disaster Response."

D. Standing Committee on Facility Access

Chairperson Marie Kimmey reported that the Committee has not met since the last Board meeting. She stated that year-end statistics were provided in the Planning Meeting.

The next Standing Committee on Facility Access meeting is scheduled for September 20, 2018. The agenda will include a discussion of conference and training efforts for the 2018-2019 fiscal year and an update on the status of the two requests for interpretive opinions, 2018-02 relating to Shower Controls and 2018-03 relating to Ramps at Doors.

E. Standing Committee on Parking

Chairperson Pauline Aughe updated members on activities in the parking program. The Memorandums of Agreement with the counties that were executed last year cover a two-year period, so this next fiscal year is covered by them. The MOAs also contain a provision which allow them to be extended up to two additional years if there are no desired changes by DCAB or the counties.

The year-end statistics are completed. For fiscal year 2018, there were 24,463 total placards issued. Of the long-term ones, 9,440 were renewals issued by DCAB. The renewal rate for fiscal year 2018 was fifty-five percent, however in the four months that fell after we did the death retrieval cross match, the rate was sixty-two percent. That is a more accurate number.

With respect to public education and outreach efforts, DCAB's contracted graphic artist has produced several draft versions of an ad to be placed on TheBus and possibly in the daily papers statewide. Staff is reviewing them now. Staff delivered 4,500 flyers to the Department of Education (DOE) which will be distributed to the participants in their driver's education program. In addition, we successfully inserted additional information into the Department of Transportation's Hawaii Driver's License Manual regarding the parking program and accessible stalls.

We have restarted the death retrieval placard program. DCAB updated approximately 7,900 records belonging to deceased permittees with active permits. DCAB also conducted major outreach activities that was reported during the Annual meeting.

Finally, SB2714 SD1 (vehicle weight tax) – The Governor signed this bill on June 29, 2018. It was codified as Act 76 (2018).

F. Special Parent Information Network

Phyllis Meighen reported that the SPIN Advisory Committee met to evaluate the Conference and plan for next year's conference. The theme is "The Wizard of Oz," although a date has not been set because the venue of the University of Hawaii Campus Center is being renovated. She also reported that staff Amanda Kaahanui participated in the 2018 Educational Leadership Institute on the topic of inclusive education. A special edition of the SPIN newsletter was published. Finally, staff participated with the Maternal and Child Health Branch to identify resources addressing child maltreatment and prevention.

VII. Open Forum

Guest Jimbo Perry, a self-identified person with a disability accompanied by his dog, Robert, came to the Board to express his concern regarding lack of action by DCAB staff. He stated that he has a pending request of one year and ten months for DCAB to formulate legislation to change the Hawaii Revised Statutes because he wants the DOH/DCAB to have enforcement authority for the Americans with Disabilities Act, including penalties, fines, and jail time for offending people. Staff indicated that he has also placed his request in writing. Chairperson Bill Bow indicated that DCAB will get back to him.

VIII. Next Meeting: The next meeting is scheduled for September 20, 2018 at 1010 Richards Street in room 118 at 11:00 a.m.

IX. The meeting was adjourned at 1:12 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
July 19, 2018

Since the last meeting on May 17, 2018, ADA activities of all DCAB staff 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

Labor and Industrial Relations

Has a claimant whose husband is deaf, if he is a witness at the hearing do they need to provide an interpreter and who pays for the interpreter services?
If the spouse is deaf and is a witness, how will the judge understand what is being said? An interpreter is hired for both parties, the people who use American Sign Language (ASL) and those who do not understand ASL. The ADA Title II requires that state government entities to provide effective communication to participate in its programs and services. The interpreter would be providing the effective communication for all participants. The hearing is a requirement of the Department of Labor and Industrial Relations so the agency bears the responsibility to pay the interpreter.

University of Hawaii, Hilo

Does the contractor hired need to set up the modular furniture so it is accessible the way the University requested it?
Need to go back and review the initial contract. If contract has the language that the contractor must comply with all applicable state, county, and federal law then it would appear as if they should set it up the way the University requested it.

Transportation, Airports

The airport elevators serving the third floor are down temporarily. It serves the third floor lounge and the second floor gate. They rely on the shuttle to transport people with mobility disabilities; however, priority is given to departing passengers so there is not always a shuttle available to transport people between the third and second floors. How do they resolve this issue?
Suggested renting a wheelchair accessible vehicle and make it their priority to transport people with mobility impairments. Another idea is to install a wheelchair lift between floors. The option chosen would depend on the estimated repair time for the elevator and how much funding is available.

County of Hawaii

Deaf residents in Puna did not know what was happening with the Kilauea eruption and at weekly community meetings. The telephone company installed phone lines at two shelters, what can be done for the nine deaf residents in Puna?

DCAB Emergency Management Planner and Communication Access Specialist assisted the ADA Coordinator to work with the Hawaii County Civil Defense Agency to provide ASL interpreters at the weekly community meetings about the eruption and progress made. Also assisted in contacting Sorenson Relay to obtain and set up two videophones (1 in each shelter) allowing deaf and hard of hearing individuals to contact family and friends to let them know they were safe. Interpreters were hired for weekly community meetings.

2. Hosted six webinars related to ADA issues:
 - Four webinars sponsored by the National ADA Network on:
 - “Ask EEOC: Open Question and Answer Session”
 - “Using WordPress for Accessible Web Development”
 - “ADA in the K-12 Setting”
 - “Ask the Department of Justice (DOJ): Open Question and Answer Session”
 - Two webinars sponsored by the U.S. Access Board on:
 - “Recreation Facilities: A Refresher”
 - “Accessible Airport Terminals”
3. Provided technical assistance to the following agencies or departments on various issues related to access to programs and services: Governor’s Office; Aloha Stadium; Departments of Education, Land and Natural Resources, Labor and Industrial Relations; University of Hawaii-Community Colleges, University of Hawaii at Manoa, University of Hawaii-Hilo; Public Utilities Commission; City and County of Honolulu and Counties of Hawaii and Kauai.
4. Provided technical assistance to the following agencies or departments on reasonable accommodations for employees with disabilities: Departments of Education, Labor and Industrial Relations, and Hawaii Housing Finance and Development Corporation, and the County of Hawaii.
5. Staffed one State ADA Coordinators Orientation and one State ADA Coordinators regular meeting.
6. Conducted seven ADA trainings: Legislature’s Public Access Room staff providing an “Overview of Title II and Customer Service for People with Disabilities,” Title II Overview for the Department of Public Safety (3x), Title II for the Department of Health titled “Making Programs Accessible to Customers with Disabilities” focusing on Service Animals and providing interpreter services (2x), and Title I for the University of Hawaii Community Colleges at Kapiolani Community College about “Emerging ADA Issues: Service Animals and Web Site Accessibility.” Also hosted a workshop for State and County ADA Coordinators and IT personnel on “Audio Description and Alt Text: Two Common Errors in Creating an Accessible Web Site.”
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.
8. Provided technical assistance to one hundred seventy-seven (177) callers from May and June 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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July 9, 2018

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue, SE
West Building Ground Floor, Room 12-140
Washington D.C. 20590-0001

Regarding: Docket DOT-OST-2018-0068 Advance Notice of Proposed
Rulemaking (ANPRM) Traveling by Air with Service Animals

Dear Sir or Madam,

The Disability and Communication Access Board (DCAB) appreciates the opportunity to offer comments on the ANPRM for the Air Carrier Access Act (ACAA) as it pertains to transportation of service animals. In 2016, when the U.S. Department of Transportation (Department) established the ACCESS Advisory Committee, DCAB offered comments on the issues that were presented, including the issue of service animals. In those comments, DCAB supported incorporating the same requirements for service animals set forth in the Americans with Disabilities Act (ADA) regulations to promote harmonization. Several years have passed and while we generally maintain the same position, our thoughts are more nuanced.

As an advocacy and technical assistance organization that responds to inquiries on various civil rights laws, by far the largest number of questions we answer relate to "animals" owned by people with disabilities. The differences between the ADA, the Fair Housing Act (FHA), and the ACAA present significant confusion not only for the public in general, but for individuals with disabilities who have animals that assist them in some capacity and move between various settings. The lack of a credible and authorized government mechanism to certify an animal has been a persistent problem in Hawaii and our Board has gone on record in support of any such change at the federal level that would legitimize a certification process similar to that of issuing parking permits to people with mobility disabilities. Given that such a procedure would require separate legislation from your efforts, we acknowledge the limitations that we currently face "in the field with no certification process." Our past and present Board members who own service animals have all experienced difficulty with untrained animals, whose presence is distracting at best and harmful at worst, to their service animals and the general public.

When analyzing the considered changes to the ACAA, we recognize the very unique differences between the ACAA and the ADA or FHA. An individual with a disability who possesses any type of assistance animal will be moving between environments (home, public accommodations, state and local government facilities, airplane cabins). For example, an airplane is a very confined environment shared by many people for which

exiting and removing an animal or a person is not possible once a flight begins. Furthermore, the behavior of an animal in a pre-flight situation may not be the same once on board, particularly if the animal has not experienced a flight before or if the flight is of a longer duration. By contrast, a place of public accommodation or state or local government facility is shared by many people, is usually not confining, and removal of an animal from the premises is relatively easy. A residential setting, such as a condominium or apartment, is also confining, but not shared by other people within a unit. Thus, we recognize that the rules may differ for practical purposes relating to the uniqueness of the setting.

While the rules and requirements may differ, because each environment poses unique challenges, we strongly encourage making the definitions among the three laws consistent. We summarize the differences in the aforementioned laws because we are aware that the Department is fully cognizant of the differences. Regardless of the differences in provisions, we strongly urge that the ACAA rules reflect the use of terminology consistent with the other rules. More specifically, the ACAA states that emotional support animals (ESAs) may be considered as service animals for the purpose of the ACAA. This fundamentally changes the concept of a service animal. We recommend that the ACAA definition of a service animal be consistent with the ADA and not include ESAs. However, if the Department wishes to grant some access privileges for ESAs, the rules should clearly state so, but not subsume them under the umbrella definition of service animal. The FHA distinguishes service animals from other assistance animals.

We note that Hawaii has the unique position of being rabies-free. We require medical documentation of rabies-free status, including appropriate vaccinations and titer tests, for animals entering our state. While we recognize that other states are not rabies-free, the need to provide appropriate documentation for animals traveling with humans is not without precedent and we do not object to such a requirement.

Our specific comments are as follows:

- Because the ADA distinguishes between a psychiatric service animal (PSA) and an emotional support animal (ESA) we recommend retaining that distinction for the purposes of a definition only. If the person's psychiatric diagnosis/diagnoses per the Diagnostic and Statistical Manual of Mental Disorders IV results in a disability and the animal has been individually trained to do work or perform tasks directly related to the person's disability, it is classified as PSA under the ADA. If the animal is not trained to perform a task, then it is classified as an ESA under the ADA. We recommend the same distinction for uniformity under the ACAA. Including ESAs under the definition of service animals would only muddy the water for the consumer. It is most critical that the federal agencies utilize the same definition of service animal across statutes.
- Whether the ACAA should permit ESAs to travel in the cabin is a separate policy issue from defining the animals. Feedback from service animal user organizations in Hawaii demonstrates a strong sentiment to limit cabin travel to only service animals, not ESAs. Misbehavior of untrained animals, including ESAs, has been a significant problem for handlers of trained animals in the community and in housing. When placed in a limited space such an airplane cabin, where no exit is possible, the potential for disrupting

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trained animals is huge. In addition, the perception is that if ESAs are allowed to travel in the cabin, many people who do not have a disability will claim their pet is an ESA to avoid putting their pet in the cargo area.

- The issue of verification is more problematic. Given the confining nature of an airplane cabin space and the impact on other passengers, an approach similar to that of the FHA would be appropriate, given that there is no government-sanctioned certification process. Requiring documentation for a PSA or an ESA to travel in the cabin would not place an undue burden on a person with a disability. Such a requirement is already in place under the FHA for residential settings, where a landlord may ask for credible verification of both the person's disability and the need for an animal, when the disability is not obvious. Requiring such documentation for the ACAA would be no different. Vests or other similar items should not be accepted as proof, given the ability anyone to purchase them online.
- The species for a service animal should mirror the ADA, limited to dogs and miniature horses. Should the Department decide to include ESAs we offer no specific opinion on the species to include other than dogs. In our work with the Fair Housing Act, we are aware that any animal can offer emotional comfort to a person regardless of disability status and determining which ones to include and which ones will not present an inappropriate behavior on a plane, is difficult.
- Any animal that the Department permits to fly with its handler in the cabin, whether a service animal or an ESA, should be harnessed, leashed, tethered, or placed in a carrier, given the very confining space in a cabin or seat, unless it interferes with the service animal's functioning. In all instances, the passenger should be required to have a harness, leash, tether, or carrier present. A carrier should be an option among several options because requiring a carrier could impose a breed restriction.
- The size and the number of animals that a person is allowed to bring into the cabin should be limited to the space of the passenger's seat, including the area at the passenger's feet. Animals should not block walkways, access aisles or exits.
- In general, attestation seems ineffective as a safeguard to ensure appropriate behavior in public because an animal's training may have occurred several years before and may not have been consistently maintained by the owner. In addition, first time flights may result in unusual behavior by both the animal and the handler that "on ground" training cannot guarantee against. However, this does not excuse poor behavior. On the other hand, an affirmation of understanding that a person's dog is expected to behave in a particular manner would be appropriate as long as it includes an understanding of the consequences of an animal being out of control. This would establish clear expectations on the part of the passenger prior to travel.
- It is reasonable for air carriers to request a health certificate or veterinary form from the treating veterinarian, dated within one year prior to the date of the handler's scheduled initial flight, which states that the animal is in good health and includes a record of current vaccinations. It would not be reasonable to require submission of forms issued

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only days prior to flights because it would impose an administrative strain on both air carriers and passengers without a significant benefit other than a possible decline in people trying to board pets as service or ESAs. Hawaii has required appropriate documentation for travel due to our rabies-free status and the requirement has been determined to be valid and nondiscriminatory for purposes of health and safety.

Thank you for the opportunity to provide comments on this important issue.

Sincerely,


 FRANCINE WAI
Executive Director



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SUMMARY OF THE ADVANCE NOTICE OF PROPOSED RULEMAKING

On May 23, 2018, the U.S. Department of Transportation issued an **Advance Notice of Proposed Rulemaking (APRM)** seeking comment on amending the **Air Carrier Access Act (ACAA)** regulation on transportation of service animals. The purpose of amending the rules is "to ensure nondiscriminatory access for individuals with disabilities while simultaneously preventing instances of fraud and ensuring consistency with other Federal regulations."

On the same day, the Department issued an Interim Statement of Enforcement Priorities as to how they plan to enforce the current ACAA provisions.

The need for rulemaking is as follows:

- 1) Consumer complaints. Most of the complaints are that airlines are not accepting emotional support animals or psychiatric service animals.
- 2) Unusual species. Passengers have attempted to fly with peacocks, turkeys, ducks, pigs, iguanas, etc. as ESAs or PSAs.
- 3) Pets. Airlines believe that many people falsely claim that their pets are service animals so that they can take their pets in the cabin rather than in cargo with a fee.
- 4) Misbehavior. Anecdotal evidence of misbehaving animals, even from service animals. Behavior includes urinating, defecating, or biting.
- 5) Airport. Difficulty in different regulations that govern the airport versus the airline.

In the APRM, the Department is soliciting comments on the following:

- 1) Whether psychiatric service animals should be treated similar to other service animals.
- 2) Whether there should be a distinction between emotional support animals and other service animals.
- 3) Whether emotional support animals should be required to travel in pet carriers for the duration of the flight.
- 4) Whether the species of service and emotional support animals that airlines are required to transport should be limited.
- 5) Whether the number of service animal/emotional support animals should be limited per passenger.
- 6) Whether an attestation should be required from all service animal and emotional support animal users that their animals have been trained to behave in a public setting.
- 7) Whether service animals and emotional support animals should be harnessed, leashed, or otherwise tethered.
- 8) Whether there are safety concerns with transporting large service animals and if so, how to address them.
- 9) Whether airlines should be prohibited from requiring a veterinary health form or immunization record from service animal users without an individualized assessment that the animal would pose a direct threat to the health or safety of others or would cause a significant disruption in the aircraft cabin. And
- 10) Whether U.S. airlines should continue to be held responsible if a passenger traveling under the U.S. carrier's code is only allowed to travel with a service dog on a flight operated by its foreign code share partner.

Comments are due by July 9, 2018.



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

July 10, 2018

The Honorable Ernest Martin, Chair
and Members of Honolulu City Council
Honolulu City Council,
530 South King Street
Room 203
Honolulu, HI 96813

Regarding: Bill 55 – Creation of a Pilot Program for Dockless Bike Share

Dear Chair Martin and City Council Members:

At its May 17, 2018 meeting, the Disability and Communication Access Board (DCAB) discussed the issue of Lime scooters under "public concerns." Because it was not a specific agenda item, DCAB could not take a formal position on dockless multimodal transportation systems as set forth in Bill 55. However, DCAB may do so at its next meeting on July 19, 2018. That stated, DCAB would like to highlight one of the concerns raised at the May 17, 2018 meeting which is relevant to Bill 55.

Any dockless transportation system runs a risk of interfering with the accessibility of existing infrastructure, such as sidewalks, curb ramps, parking meters, and accessible entrances. When Lime scooters was in operation, DCAB observed scooters parked in a manner that impeded accessibility.

For the record, we note that Biki consulted with DCAB to ensure that its docking stations did not have a negative impact on accessibility. It is our hope that any future transportation programs would similarly consult with us.

Thank you for the opportunity to provide comment.

Sincerely,

WILLIAM H.Q. BOW
Chairperson

**DCAB Board Meetings
Schedule for FY 2018-2019
(Third Thursday of every other month)
11:00 a.m. – 1:00 p.m.**

September 20, 2018

November 15, 2018

January 17, 2019

March 21, 2019

May 16, 2019

**July 18, 2019
(Annual Planning and General Meetings
9:00 a.m. - 1:00 p.m.)**

PLEASE MARK YOUR CALENDARS!!



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DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING July 19, 2018

2018 Legislative Wrap Up

The second year of the 29th Legislative Session adjourned on May 3, 2018.

Disability-related bills the Board tracked or took positions on that passed this Legislative session included:

- SB 2013, SD1, HD2, CD1 – Relating to Civil Identification Requires the Director of Transportation to adopt rules to allow an individual who has a letter from a licensed primary care provider certifying that a severe disability causes the individual to be homebound to renew a State identification card by means other than an in person appearance. (ACT 75)
- SB 2461, SD1, HD1, CD1 – Relating to Service Animals Establishes a civil penalty for knowingly misrepresenting an animal as a service animal. Conforms Hawaii law with the definition of "service animal" under the Americans with Disabilities Act of 1990. Takes effect on 1/1/2019. (ACT 217)
Became law without the Governor's signature.
- SB 2691, SD1, HD1, CD1 – Relating to Board Meetings Allows boards, under Hawaii's Sunshine Law, to provide a copy of the public notice of a meeting to the Office of the Lieutenant Governor or appropriate county clerk's office via electronic mail. (ACT 63)
- SB 2714, SD1, HD1, CD1 – Relating to Vehicle Weight Tax Excludes the weight of disability access modifications from the determination of net weight for non-commercial vehicles for purposes of levying the state and county motor vehicle weight tax. Takes effect on 7/1/2019. (ACT 76)
- HB 1401, HD1, SD1, CD1 – Relating to Elections Requires a pilot program for the 2020 primary and general elections in any county with a population of less than 100,000 to be conducted by mail. Establishes a voter service center to provide certain election services. Allows for additional places of deposit for personal delivery of mail-in ballots. Requires the Office of Elections to submit reports to the Legislature. Appropriates funds (\$75,450 for fiscal year 2018-2019). (ACT 182)
- HB 2271, HD2, SD1, CD1 – Relating to the Practice of Behavior Analysis Updates and standardizes the terminology used to refer to behavior analysts and applied behavior analysis. Clarifies the licensing exemptions for certain individuals who provide behavior analysis services. Requires the Department of Education to create and implement a plan to provide Medicaid billable applied behavior analysis services to all students diagnosed with autism spectrum disorder within the Department. Establishes reporting requirements. (ACT 205)
- HB 2739, HD1 – Relating to Health Establishes a regulated process under which an adult resident of the State with a medically confirmed terminal disease and less than six months to live may choose to obtain a prescription for medication to end the

patient's life. Imposes criminal sanctions for tampering with a patient's request for a prescription or coercing a patient to request a prescription. (ACT 2)

- HB 2748, HD2, SD2, CD1 – Relating to Housing Directs the Hawaii Housing Finance and Development Corporation (HHFDC) to study and report on housing for populations with access and functional needs. Extends exemption from general excise tax for development costs of affordable rental housing certified by HHFDC. Increases limits on costs eligible for exemption and clarifies eligibility to qualify for the exemption. Prohibits discrimination against tenants based solely on receipt of Section 8 housing assistance. Appropriates funds to the rental housing revolving fund and the dwelling unit revolving fund in fiscal year 2017-2018. (ACT 39)

The following disability-related concurrent resolution was adopted and included DCAB as a member of the task force:

- SCR 40, SD1, HD1 – Requesting the State of Hawaii Department of Defense to Convene an Emergency Management Agency Review Task Force The purpose of the resolution is to 1) review the capabilities and weaknesses of the state and counties emergency notification and disaster planning, response and recovery; 2) assess whether emergency coordination and disaster preparedness among federal, state, county and private stakeholders is adequate; and 3) recommend whether new public schools and government buildings in the State should be required to include a safe room or area capable of withstanding a category 3 hurricane for occupants. Of the twenty-one agencies represented on the task force, DCAB is included as a member.

DCAB took position on seventy bills, thirty-two concurrent resolutions/resolutions, and submitted a total of sixty-six testimonies on measures that were heard.

If you are interested in other measures, contact Debbie Jackson at 586-8121 or email debbra.jackson@doh.hawaii.gov.

SPIN Report for July 2018

Annual Planning Meeting

SPIN's Advisory Committee met on June 21st to review education and community living goals and objectives for DCAB's Plan of Action. Members also debriefed about the SPIN Conference and selected a theme—the Wizard of Oz—for the 2019 conference. The date for the event is in flux, as the University of Hawaii's Campus Center is expected to undergo renovation sometime in early 2019. Two tentative dates have been penciled in—February 23 and April 13, 2019—to ensure availability of the venue while we await a definite renovation schedule.

2018 Educational Leadership Institute

SPIN Staff Amanda Kaahanui was one of the few parent speakers at the 2018 **Educational Leadership Institute** held on July 12th at the Hawaii Convention Center. She joined panel presentations in two workshops—*Equal Access to Excellent Education* and *Journey to Co-Teaching*—to share her parent's perspective on inclusive education. Amanda's son Ikaika was also a presenter.

SPIN's Special Edition Newsletter

In support of the Superintendent's focus on inclusive education in the SY 18-19, SPIN devoted its special edition to that topic, debunking myths about inclusion, citing benefits and providing options for advocacy. Board members can access the newsletter at: <http://spinhawaii.org/newsletter-download/>.

Preventing Child Maltreatment in Children and Young Adults with Disabilities

SPIN was invited by the Maternal and Child Health Branch of the Department of Health to an information gathering meeting. The purpose of the meeting was to identify materials and resources addressing child maltreatment prevention, as well as missing information, with the purpose of developing and conducting a statewide needs assessment. The ultimate goal is to raise awareness and increase knowledge and skills about preventing child abuse and neglect in the target population of children and youth with disabilities.