



# 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 19, 2019  
Time: 11:00 a.m. to 1:00 p.m.

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Minutes of August 1, 2019
- IV. Executive Director's Report
  - FY 2019-2020 Expenditure Plan
    - Supplemental Budget Request
  - Personnel
  - Other Administrative Issues - Update
- V. Committee Reports
  - A. Executive Committee
    - Approval of Expenditure Plan for FY 2019-2020
    - Approval of Supplemental Budget Request for FY 2019-2021
  - B. Legislative Committee
  - C. Standing Committee on Communication Access
    - Hawaii Administrative Rules, Title 11, Chapter 218, "Communication Access Services for Deaf, Hard of Hearing, and Deaf-Blind" -- Update on Public Hearing
    - HQAS Continuing Education Workshops - Update
    - Recommended Fee Schedule and Interpreter Handbook
    - Other Communication Activities from the Plan of Action
  - D. Standing Committee on Facility Access
    - Document Reviews and Database – Update
    - Other Facility Activities from the Plan of Action
  - E. Standing Committee on Parking
    - Parking Program Issuance and Statistics – Update

- Eligibility and Certification Issues
- Public Education Quality Assurance and Outreach Efforts – Update
- Implementation of Act 87 (2019) and Hawaii Administrative Rules Title 11, Chapter 219, “Parking for Persons with Disabilities” (refer to staff summary)
- Other Parking Activities from the Plan of Action

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

VI. Old Business

- A. ADA Coordination Update
- B. DCAB Guiding Principles on Public Transit, Fixed Route Bus and Paratransit Services – Update (see attached)

VII. New Business

- A. U.S. Department of Transportation, Guidance on Nondiscrimination on the Basis of Disability in Air Travel (refer to staff summary)
- B. U.S. Access Board, Public Comment on the Proposed Advisory Guidelines for Aircraft Onboard Wheelchairs (refer to staff summary)
- C. Disaster Relief Medicaid Assistance Act - S. 1754/H.R. 3215 (refer to staff summary)

VIII. Open Forum

IX. Announcement of Next Meeting

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](mailto:dcab@doh.hawaii.gov) as soon as possible, preferably by September 16, 2019. If a response is received after September 16, 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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## MINUTES

### Disability and Communication Access Board General Meeting

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

Date: September 19, 2019

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

**PRESENT:** Pauline Aughe, Chairperson; Anthony Akamine, Monty Anderson-Nitahara, Ron Awa, Bill Bow, Rosanna Daniel-Kanetake, Dean Georgiev, Nikki Kepo'o, Marie Kimmey, Summer Kozai, Phyllis Meighen, Amy Tsuji-Jones, Bryant Yabui, Board Members; Francine Wai, Debbie Jackson, Kristine Pagano, Kirby Shaw, Duane Buote, Bryan Mick, Cindy Omura, Staff

**ABSENT:** Scott Fleming, Violet Horvath, Gerald Isobe, Justin Tokioka, Board Members

**GUESTS:** Peter Fritz, Donald Sakamoto

**COMMUNICATION ACCESS PROVIDERS:** Michele Morris, Carie Sarver, Sami Silvia

- I. The meeting was called to order at 11:05 a.m. by Chairperson Pauline Aughe.
- II. After the roll call, Chairperson Pauline Aughe announced that this is the last meeting for Bryant Yabui who submitted his resignation to the Board directed to the Chairperson. She read a thank you letter to him for his service on the Board and especially the Standing Committee on Parking and also presented him with a lei.
- III. Approval of Meeting Minutes of August 1, 2019

Chairperson Pauline Aughe referred members to the minutes of the full Board meeting of August 1, 2019. In the meeting DCAB approved the Plan of Action and the hiring of the new Executive Director. The Board voted to approve the minutes of August 1, 2019 (M/S/P Akamine/Daniel-Kanetake).

#### IV. Executive Director's Report

Francine Wai reported that paperwork for new DCAB Executive Director Kirby Shaw was approved in early September. As a result, a transition date of November 1, 2019 was agreed upon with her last official day of work as October 31, 2019. This is a month later than originally anticipated but the extra month will allow for more orientation and transition in addition to completing other projects in the office. Kirby Shaw and Francine Wai have developed a daily Orientation Schedule of various topics for the months of September and October 2019.

Staff have begun advertising for the position of the Program and Policy Development Unit (P2) Coordinator. The announcement is on the DCAB homepage and has been given to the Department of Health (DOH) for posting on various websites. We typically do not receive much interest from state employees because they are not interested in giving up their civil service status for an exempt position. The job announcement was emailed to all Board members. In addition, a classified ad will be in this Sunday's newspaper. The deadline is October 11, 2019 and depending upon the applicant pool, we hope to make a selection by the end of October for a start date of December 1, 2019, thus leaving the position vacant for only a month.

Francine Wai stated that she will be in the office to help Kirby Shaw with the work created by the vacancy and to continue with the training and transition. However, her work in the office will be intermittent and will be on a volunteer basis only. She will be working with staff, and not the public.

The office recently received approval for updated position descriptions of the Secretary, Program Support Technician II, and Office Assistant. The position description of the DCAB Administrative Officer is being re-described to assume more responsibility in fiscal, personnel, and internal information technology (IT) issues, and is pending Departmental approval.

Update on fiscal issues will be deferred until the Executive Committee Report. As part of the transition to a new Executive Director, the reports on the budget will be provided by Kristine Pagano, DCAB Administrative Officer.

Regarding the Kamamalu Building, DCAB is in the process of redesigning portions of the Executive Director's office for greater accessibility. In addition, the space currently occupied by the P2 Unit Coordinator, which is large, will be converted into two work spaces for the Communication Access Specialist and a potential intern or new staff position. The newly hired P2 Unit Coordinator will move into the office currently occupied by the Communication Access Specialist. Staff is currently in the process of dialogue with the City and County of Honolulu, Department of Transportation Services to hopefully convert all or a portion of the metered stalls in the front of the Kamamalu Building into a passenger loading zone and area for Handi-Van pickups and drop offs, although this is not an easy sell due to the loss of three parking stalls and revenue.

## V. Committee Reports

### A. Executive Committee

Chairperson Pauline Aughe noted that all members were mailed a copy of the minutes of August 1, 2019. The Committee approved the Expenditure Plan for fiscal year 2019-2020 and the proposed Supplemental Budget Request for fiscal year 2020-2021. The Board voted to approve the fiscal year 2019-2020 Operational Expenditure Plan (M/S/P Kepo'o/Akamine). The Board also voted to approve the fiscal year 2020-2021 Supplemental Budget Request (M/S/P Kepo'o/Akamine).

Kristine Pagano provided an update on the budget since the Executive Committee last met on August 1, 2019. The Executive Committee approved the fiscal year 2019-2020 Operational Expenditure Plan. By way of an

update, the Departments were given an across the board five percent restriction on general fund appropriations by the Department of Budget and Finance. This would have translated into about \$50,000 for DCAB. Departments were given the flexibility to assess the restriction within their Department. Fortunately, DOH chose not to assess any of the restrictions on DCAB, as programs with vacancies and other savings were assessed the full Department restriction.

She also updated the Board on the Supplemental Budget request. The Executive Committee approved a Supplemental Budget request to ask for an additional .5 position in the area of communication access. This was also in the Annual Plan of Action. The DOH decided, however, that it would be better to ask for a full 1.0 position. The deadline was August 9, 2019. This position, if approved, would focus on technical assistance on many communication access areas (not relating to our interpreter testing and credentialing) such as accessible social media, public service announcements, emergency notifications, websites, captioning, etc. This will not be classified as an IT Specialist but rather a Communication Access Specialist. We are not likely to hear the final decision until the Governor finalizes his Executive Budget for submission to the Legislature at the end of this year.

B. Legislative Committee

Committee Chairperson Rosanna Daniel Kanetake reported that DCAB will not be introducing any bills during the 2020 Legislative session. Both of DCAB's bills from the 2019 session relating to movie theaters (open captioning) and parking passed, so we are taking a hiatus on bill introduction for the upcoming session. There are no legislative initiatives in our 2020 Plan of Action.

The Legislative Committee will meet in October to strategize on how to approach the 2020 session and will report at the November Board meeting on what actions or positions will be taken. The Committee will be considering developing guiding principles on bills by subject matter to make it more efficient for staff to track bills and to draft and write testimony in a more, timely fashion.

C. Standing Committee on Communication Access

Committee Chairperson Nikki Kepo'o reported that the Standing Committee on Communication Access met on August 15, 2019.

The public hearing on the proposed administrative rules was also held on August 15, 2019. These rules amend the current system of interpreter testing and credentialing. The test itself will remain the same, but we are separating the test from the issuance of the credential, allowing DCAB to issue credentials in the future to people who have passed tests other than our state test. The other major changes are to remove the recommended fee schedule from the rules, changing the ethics portion from a written test to a required viewing of a video on the Code of Professional Conduct. The Committee

received three testimonies, two in support overall, and one with comments on the required continuing education units and a recommendation to include a recognition of an educational interpreter credential as equivalent to our test. The Committee reviewed both suggestions and declined to make changes.

Thus, the Committee asked for final approval from the Board to forward the rules to the Governor for signature with no changes from the proposed draft with a desired effective date of January 1, 2020 (M/S/P Kimmey/Daniel-Kanetake).

Regarding the Hawaii Quality Assurance System (HQAS) Test, Continuing Education Unit (CEU) Program, and Credential, there are twenty-eight HQAS interpreters in our CEU program. DCAB offered a free workshop on August 1, 2019 for interpreters with both Ms. Corina Guterrez and Ms. Yoshiko Chino, who were here for the Communication Access Conference. We are also offering CEU workshops on October 11 and 12, 2019 and December 7, 2019 for interpreters. Staff is awaiting the revised videos on the Code of Professional Conduct and the replacement +H video to be used in our credential process as the administrative rules are finalized. The Committee will continue to work on the recommended fee schedule as well as a handbook on using communication access services.

Nikki Kepo'o reported that we had a successful Communication Access Conference on July 31, 2019 at the Ala Moana Hotel with two hundred attendees. A big thank you to the Office of Language Access for providing funding for the Conference. Keynote speakers focused on the topics of DeafSpace, Emergency Preparedness for People who are Deaf and Hard of Hearing, and Communication with Limited English Proficiency Deaf and Hard of Hearing Individuals.

The Committee will be meeting on Saturday, September 21, 2019 in an effort to open up the meeting to more community attendance.

D. Standing Committee on Facility Access

Committee Chairperson Marie Kimmey reported that the Facility Access Unit (FAU) reviewed two hundred fifty-eight projects from July 1 to September 17, 2019 of which one hundred six were new submittals. The FAU collected \$147,718.00 in fees during that same time period.

The 2020 Disability Access Conference is scheduled for June 2, 2020. The date was pushed back to June in order to not conflict with the National ADA Symposium which will be held May 10-13, 2020. The FAU is currently working on topics and finding speakers for the conference.

The FAU has started the basic training series for fiscal year 2019-2020 by scheduling Session 1 for September 25 and 26, 2019. All four sessions will be offered between now and March 2020. In addition, the FAU is developing a one day basic training course to be offered on the outer islands. Staff will be working with the counties to secure venues and set dates for the new basic training course.

Based on information provided in media coverage DCAB has been sending out letters to offer its support for various projects that may be in the early planning stages. The purpose is to initiate a dialogue with the agency to help ensure accessibility design issues are looked at in these early stages to help mitigate potential cost to make major changes later in the design process. Letters were recently sent out for the following projects: Aloha Stadium Redevelopment Plan, Department of Education Job Order Contracting, University of Hawaii Maui College Emergency Housing, Waikiki Beach Pavilions, Affordable Rental Housing for Abused Persons, and Affordable Rental Housing sold by Hawaii Housing Finance and Development Corporation.

E. Standing Committee on Parking

Committee Chairperson Summer Kozai reported for the Committee, which met prior to the Board meeting.

Parking Program Issuance and Statistics, for the two months of fiscal year 2020 there were 5,661 placards and 307 special license plates issued. Of the placards, 1,394 were temporary and 4,267 were long term. Of the long term placards, 2,002 were renewals issued by DCAB. The renewal rate was sixty-one percent. Staff prepared a two-year graph showing the total renewals per month, which shows a slow but steady rise in monthly renewals.

There were two issues raised regarding eligibility and certification by members of the public and required staff research and in one case consultation with the Department of the Attorney General (AG's Office). The first question was whether mopeds are eligible for special license plates. In practice, the counties do not issue them. Staff research indicates that is proper, because mopeds are not defined as a motor vehicle in Hawaii Revised Statutes. Motorcycles however, are a motor vehicle. A second question was whether medical residents (MDRs) are legally authorized to certify eligibility for a disability parking permit. Staff contacted the medical board administrator and the AG's Office, and it was determined that MDRs are "licensed practicing physicians" and therefore eligible to certify for a placard under the statutes. Our county partners were informed of this change in procedure. Physician assistants remain ineligible to certify a person with a disability for a placard.

Staff has made contact with the company that employs the individual who built the parking locator app and requested a quote to update it for Android; it still works on iOS. Staff scheduled a meeting with our liaison to train him on its use so he can begin to upload photos of accessible parking stalls and their locations into the app.

For the placard death retrieval effort, 2,496 letters were sent to the estates of deceased permittees. To date, 1,233 (49%) were returned, 130 (5%) were reported as lost or disposed of by the family, and 368 (15%) were returned by the post office as undeliverable.

Summer Kozai deferred to Bryan Mick, who referred to the staff summary sent to Board members regarding the implementation of Act 87 (2019) and

Hawaii Administrative Rules, Title 11, Chapter 219, "Parking for Persons with Disabilities. The Committee approved the draft of the rules, and is asking for full Board approval to request Governor's approval to proceed to public hearing. The majority of the amendments are to language or to add sections in response to Act 87. There are three sections throughout the document that are directly related to Act 87. The first change is to amend the definition of an access aisle to close a current loophole which exempts no parking in access aisle for parking lots that have four or less stalls. The second change would be the escalating replacement fee schedule when it comes to the new parking exempt placard. This will hopefully serve as a deterrent from a permittee claiming they lost their placard when they did not. The first replacement will cost \$30, second \$60, third \$90, and subsequent ones \$120. The third change is the creation of an exemption from striping requirements for temporary accessible stalls and access aisles. Temporary stalls would be defined as used for accessible stall purposes seven consecutive days or less. The Board approved the Committee's proposed draft to forward to the Governor for approval to proceed to public hearing (M/S/P Bow/Anderson-Nitahara).

F. Special Parent Information Network

Board member Phyllis Meighen reported on several activities of SPIN: Central District new special education teacher training, efforts to establish the ABLE Act in Hawaii, public education at an Army program for families of children with disabilities, and speaking at the Leeward and Kapiolani Community Colleges Nursing Program. A written report is established.

VI. Old Business

A. ADA Coordination Update

Debbie Jackson referred members to her written ADA Coordination Report. She emphasized the co-sponsorship of a series of workshops for state employees on web accessibility co-sponsored by DCAB, the Office Enterprise Technology Services, and the University of Hawaii (UH) with the trainer being from the UH Center on Disability Studies, Media Center. Guest Peter Fritz offered comments on accessibility. Specifically, he asked if the parking locator app would be accessible. He also mentioned several areas of accessibility of concern. Specifically, the Communication Access Conference had no captioner. He expressed concern that DCAB does not have a policy that all documents must be accessible. He also expressed concern that third party postings on a state entities' website must also be compliant.

B. DCAB Guiding Principles on Public Transit, Fixed Route Bus and Paratransit Services – Update

Bryan Mick referred members to the handout on the Guiding Principles which was sent to all members. He reported that in discussing DCAB's Guiding Principles with a county department, staff realized the county had some confusion as to the purpose of DCAB's principles (i.e., whether they were for us or if we were asking them to adopt them as their guiding principles). Staff

explained it to the department but concluded that having clarifying language or a disclaimer at the top of each document already adopted by the Board and any future ones might be a wise addition. Staff therefore proposed adding the following language "These guiding principles are to assist DCAB in preparing testimony or offering comments on Federal, State, and County government proposed laws, rules, polices, and procedures." In response to a bill before the Kauai County Council, staff is also proposing adding three new principles as noted on the proposed draft in underlined text.

The added principles related to (1) providing paratransit to non-paratransit eligible riders; (2) body odor of paratransit riders; and (3) who is able to do eligibility determination.

The Board voted to amend the Guiding Principles on Public and Paratransit Fares as well as the Guiding Principles on Pedestrian Safety as noted (M/S/P Kepo'o/Anderson-Nitahara).

## VII. New Business

### A. U.S. Department of Transportation, Guidance on Nondiscrimination on the Basis of Disability in Air Travel

Kirby Shaw referred members to a staff summary mailed to all members. The guidance provides information on how the U.S. Department of Transportation will enforce provisions relating to animals in the cabin when accompanying a person with a disability. The guidance is not seeking comments thus this summary is for informational purposes only. Separately, the Department sought comments through an Advanced Notice of Proposed Rulemaking upon which DCAB offered comments.

### B. U.S. Access Board, Public Comment on the Proposed Advisory Guidelines for Aircraft Onboard Wheelchairs

Kirby Shaw referred members to a staff summary mailed to all members. He reported that the U.S. Access Board is seeking public comment on the development of proposed guidelines for onboard wheelchairs that will allow a person to wheel to and enter the lavatory with a chair positioned over the toilet in a closed position. Board members expressed concern that such a chair would not allow a person to actually transfer and use the toilet, although staff indicated that the mere ability to enter the toilet room would be an improvement for personal hygiene or medication administration. These guidelines are for existing aircraft with the hope that new aircraft will have an accessible toilet room. The Board voted to submit a letter to the U.S. Access Board in support of its efforts to establish guidelines and specifications for onboard wheelchairs that can be positioned over a closed toilet (M/S/P Akamine/Anderson-Nitahara).

### C. Disaster Relief Medicaid Assistance Act - S. 1754/H.R. 3215

Debbie Jackson referred members to a staff summary sent to all members. She mentioned that this proposed legislation accompanies the READI Act that DCAB testified on earlier. She summarized that the purpose of the bill

was to ensure that the Medicaid benefits of an individual would be transferrable across state lines if an individual has to be evacuated and relocated due to a natural disaster. The Board voted to support the legislation (M/S/P Meighen/Akamine).

VIII. Open Forum

Donald Sakamoto, guest, introduced himself. He noted that he is the President of Citizens for a Fair ADA Ride (CFADAR) that focuses on Handi-Van issues such as long waits, the phone system, the 2016 Auditor's Report, etc. He is also Vice Chairperson of the Mayor's Committee for Accessible Transportation of the Department of Transportation Services. He recently toured the Oahu Transportation Services Facility, along with DCAB staff. He noted that he looks forward to coming to more DCAB meetings in the future.

IX. Announcement of Next Meeting

Pauline Aughe announced the next DCAB meeting will be on November 21, 2019. Francine Wai noted that Kirby Shaw will be staffing the November meeting as Executive Director.

X. Adjournment

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

NOTE: All votes were unanimous unless otherwise noted.

Respectfully submitted,

  
fw  
FRANCINE WAI



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### STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING September 19, 2019

TOPIC: Proposed Amendments to Hawaii Administrative Rules (HAR) Title 11, Chapter 219, "Parking for Persons with Disabilities"

#### SUMMARY

On June 7, 2019, Governor Ige signed into law Senate Bill 1236, SD2, HD2, CD1 (Act 87). Act 87 made significant amendments to the statute on parking for disabled persons, Hawaii Revised Statutes (HRS) Chapter 291, Part III. The amendments to the parking statute require amendments to the administrative rules on parking, Hawaii Administrative Rules, Title 11, Chapter 219, to conform the rules to the amended statute. Additional amendments to the rules are necessary to update terminology, fix a grammatical error, close a loophole in signage requirements for parking lots with four or less parking spaces, and to specify which requirements apply to temporary accessible parking spaces and access aisles.

At its meeting on August 1, 2019, the Standing Committee on Parking voted to approve the proposed amendments to the rules and to submit the same to the Board for its consideration.

#### ANALYSIS:

The proposed amendments would amend the affected sections as set forth below.

1. To conform to statute, section "11-219-4 Definitions" the following would be added, "Disability parking permits," "Disabled paid parking exemption permit," and "Invalid disability parking permit." The definition of "Access aisle" would be amended so that it applies to lots with four or less parking spaces. The definition of "Licensed practicing physician" would be amended to add "a commissioned medical officer in the United States armed forces." The definition of "Person with a disability" would be amended so that certifying physicians and advanced practice registered nurses will have to indicate a diagnosed condition and its functional impact on an applicant's ability to walk 200 feet without stopping to rest.
2. To conform to definitions, section "11-219-5 Person with a disability parking application" would be amended. It also would be amended so that the signature of a physician or advanced practice registered nurse will be valid for sixty days prior to the submission of the form. The wording on conditions that do not qualify

would be amended to reflect current terminology regarding behavioral, learning, intellectual, and developmental disabilities.

3. To conform to the definitions, section "11-219-6 Issuance of special license plates, removable windshield placards, and temporary removable windshield placards" would be amended.
4. To conform to statute, section "11-219-6.25 Issuance of disabled paid parking exemption permit" would be added.
5. To conform to definitions, section "11-219-6.5 Issuance of identification cards" would be amended.
6. To conform to definitions, section "11-219-7 Replacement of lost, stolen, mutilated, or confiscated removable windshield placard, temporary removable windshield placard, special license plates and identification cards" would be amended.
7. To conform to statute, section "11-219-7.25 Replacement of lost, stolen, mutilated, or confiscated disabled paid parking exemption permit" would be added. This also includes an escalating fee for each replacement within the period for which the original permit is still valid, and it is \$30, \$60, \$90, and then \$120 for any subsequent replacement.
8. To conform to definitions, section "11-219-7.5 Renewal of removable windshield placards, temporary removable windshield placards and special license plates" would be amended. It would also be amended to indicate that the signature of a physician or advanced practice registered nurse would be valid for 180 days prior to the submission of the form for a long-term permit, and for 60 days prior to the submission of the form for a temporary permit.
9. To conform to statute, section "11-219-7.75 Renewal of disability paid parking exemption permits" would be added.
10. To conform to definitions, section "11-219-8 Return of disability parking permits and identification cards" would be amended.
11. To conform to definitions, section "11-219-10 Display of permits and presentation of identification cards" would be amended.
12. Because the current section is redundant with the statute, section "11-219-10.5 Metered parking privileges" would be deleted.
13. To conform to definitions, section "11-219-11 Nontransferability" would be amended.
14. To conform to definitions, section "11-219-12 Penalties" would be amended.

15. To fix a grammatical error, section "11-219-14 Signage and marking of parking space and access aisle" would be amended to delete the word "not." It would add a section to exempt an accessible parking space which has been assigned to an employee from the signage requirements. It would also be amended to exempt a temporary accessible parking space and access aisle, defining "temporary" as seven consecutive days or less, from the striping requirements. A sentence would be added permitting the painting of the words "No Parking" in an access aisle. A new section would be added stating that all other requirements under the Americans with Disabilities Act for accessible parking spaces would still apply to temporary parking spaces and access aisles, just not the striping under the administrative rules.

STAFF RECOMMENDATION:

Staff recommends that DCAB approve the proposed amendments to the rules and seek the Governor's approval to begin the rulemaking process.



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## DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING September 19, 2019

### ADA Coordination Report

Since the last meeting on July 18, 2019, ADA activities of all DCAB staff included:

1. Provided technical assistance (TA) to one hundred fifty-one callers for July and August on issues related to the ADA. Key departments/agencies were the: Office of the Governor, Judiciary, Elections, State Libraries; Departments of Accounting and General Services (DAGS) - Stadium Authority, Attorney General (AG), Business, Economic Development and Tourism (DBEDT), Education (DOE), Health (DOH), Human Resources Development (DHRD), Human Services (DHS) – Vocational Rehabilitation (VR), Land and Natural Resources (DLNR), Public Safety (PSD), Transportation (DOT) (2x), University of Hawaii (UH) at Manoa, and the Counties of Hawaii, Honolulu, Kauai, and Maui. Examples of significant TA to the following State and County ADA Coordinators were:

#### Department/Agency

#### Issue and TA provided

Education

A high school is planning to send a letter to students' parents regarding a student with a disability who is attending school and using a service animal. Is there a standard policy about how to inform parents that someone will be using a service animal at the school?  
*Referred to the DOE's ADA Coordinator. There may already be a policy in place, so it would be unnecessary to send a letter from the principal to the parents. There should be notifications available to everyone at the school, including teachers and other workers that there will be a dog at the school (including posting a sign for visitors). This is to inform people who have an allergy to dog dander to take necessary precautions.*

County of Hawaii

Hawaii Tourism Authority is a state agency. Does their web site need to be compliant to ADA standards to provide information that is accessible to people with disabilities?  
*There are no ADA Title II web site accessibility standards, so there are no enforceable rules. A state agency should do everything it can to follow best practices under the WCAG 2.0 at the A and AA Level to meet minimal accessibility guidelines to provide Title II information on state and county web sites in an accessible format for people with disabilities.*

County of Kauai

With the new law establishing all mail voting, there will be voter service centers established in each county. There will also be voting machines for people who want to use a ballot. What type of voting machines will be used and will they be accessible for voters with disabilities?

*Consulted with the State Office of Elections. They plan to have the Direct Recording Electronic (DRE) machines that have been used at prior polling sites. They are accessible for people with disabilities to use for voting. They are not touch screen monitors, so voters need to push buttons and use headphones to access ballots for people to be able to vote.*

2. Hosted seven webinars related to ADA issues:
    - Six webinars sponsored by the National ADA Network on:
      - “Recommendations from the DHS’ Office of Civil Rights and Civil Liberties (CRCL) After the Disasters of 2017”
      - “ADA Anniversary Update: 29 Years Burning Down the Road”
      - “Inflexible Work Policies – Bringing People Back to Work”
      - “(Dis)abling Comics, ‘Crippling’ the Comic Con, and Accessible Technologies”
      - “FEMA’s Office of Disability Integration and Coordination – Who We are and How We Serve”
      - “Insights on Traveling with a Mobility Disability”
    - One webinar sponsored by the U.S. Access Board on:
      - “Accessible Transient Lodging”
  3. Provided technical assistance to the following Departments/agencies on reasonable accommodations for employees with disabilities: DAGS, DOE (2x), and DHRD.
  4. Met with staff of DHRD, Equal Employment Office twice to discuss turning over responsibility for the revision and maintenance of the “State of Hawaii Reasonable Accommodation for Employees with Disabilities Manual.”
  5. Coordinated and conducted two training sessions for the Judiciary’s Juvenile Detention facility staff in Kapolei.
  6. Planned and began implementation of a nine-course series of trainings on Digital Content Accessibility for ADA Coordinators and State employees who create documents and upload files to State web sites. Each training is conducted twice on one topic, and are cosponsored by the Office of Enterprise Services, UH Center on Disability Studies Media Center and DCAB. Trainings began in July and will continue through the end of October.
  7. Conducted three trainings. Two were for the Judiciary’s Detention Home staff at Hale Mahalolu in Honolulu about “How to Identify Service Animals” and one was for the State Library staff in Honolulu providing an “Open Q&A on Making Reasonable Modifications of Policies and Procedures to Permit Entry to Service Animals.”
  8. 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.
- 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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### DCAB GUIDING PRINCIPLES ON PUBLIC TRANSIT FIXED ROUTE BUS AND PARATRANSIT SERVICES

These guiding principles are to assist DCAB in preparing testimony or offering comments on Federal, State, and County government proposed laws, rules, policies, and procedures.

New material under items 7 through 9 is underscored.

- 1) The cost per one-way trip for paratransit service should never be higher than the one-way adult fare for fixed route bus service (ADA allows the fare per paratransit trip to be up to double the fixed route bus fare).
- 2) Paratransit fares should only be raised annually and in small increments to avoid having a large impact on people living on fixed incomes.
- 3) Subsidies should be provided to those who qualify as extremely low income.
- 4) To incentivize the use of fixed route bus service by paratransit users, the fare to use the fixed route bus service (for paratransit users only) should be lower than the fare for paratransit service.
- 5) Preferred methods to address the increasing demand for paratransit service and on time performance metrics include, but are not limited to: fleet expansion, taxi subsidy programs, higher fares for paratransit trips that exceed the time or distance requirements under the ADA (same operating hours as fixed route and within 3/4 mile corridor of fixed route), higher fares for subscription service and agency trips, and grants for agencies to purchase vehicles to transport their own clients. Fare increases should be the last method used to decrease the demand for paratransit service and to achieve on time performance.
- 6) If a farebox recovery policy is established for paratransit service, it should not be linked to the farebox recovery policy for fixed route bus service. This is because fixed route bus users have multiple options; such as monthly and annual passes, and Medicare and youth fares; which paratransit users do not have. Therefore, linking any paratransit service farebox recovery policy to that of the fixed route bus service would be incongruous and misguided.

- 7) A public entity should not provide paratransit service to persons other than individuals who are paratransit eligible under the Americans with Disabilities (ADA) definition if the provision of service to such persons would cause a public entity to deny, delay or otherwise prevent the provision of paratransit service to ADA paratransit eligible individuals.
- 8) A person's body odor should not be used as a reason to deny service on public transit or paratransit service unless it poses a health or safety risk to transit personnel or patrons.
- 9) Paratransit eligibility should be determined by County personnel or an entity under contract with the County to ensure the application of uniform eligibility standards by objective health care professionals.

Adopted by the Board at its General Meeting on May 16, 2019.

Revised on (xxxxxxx)



## DISABILITY AND COMMUNICATION ACCESS BOARD

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STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS  
BOARD  
GENERAL MEETING  
September 19, 2019

TOPIC: DOT Guidance on Nondiscrimination on the Basis of Disability in Air Travel

SUMMARY:

On August 8, 2019, the U.S. Department of Transportation (DOT) issued a Final Statement addressing various topics with respect to the transportation of service animals in the cabin of aircraft. The DOT regulates the transportation of service animals under the Air Carrier Access Act (ACAA) and its implementing regulations. While not legally binding, the Final Statement is intended to provide greater clarity to passengers, airlines, and other stakeholders about the DOT's interpretation and enforcement of its current ACAA regulations. The Final Statement provides guidance on the topics below.

1. **Species and Breed Restrictions:** The DOT will use resources to ensure that dogs, cats and miniature horses are accepted for transport. Airlines cannot categorically refuse other animal types except for snakes, other reptiles, ferrets, rodents, and spiders. Airlines cannot categorically restrict specific dog breeds.
2. **Number Restrictions:** The DOT will not take enforcement action against airlines that restrict a passenger from traveling with more than one emotional service animal (ESA) and two service animals for a total of three animals. There can be no categorical restriction on the absolute total number of animals in any one cabin.
3. **Weight Restrictions:** Airlines may not impose a categorical restriction on service animals over a certain weight, without regard to specific factors that would preclude transport of that animal in the cabin.
4. **Age Restrictions:** The DOT will not take enforcement action against airlines that have a minimum age requirement as long as it is clear any animal below that requirement is too young to have been properly trained.
5. **Flight-Length Restrictions:** Airlines may not categorically restrict service animals on flights scheduled to last eight hours or more. On those flights, airlines may ask for forty eight hour advance notice, early check in, and documentation that the animal will not need to relieve itself on the flight or can do so in a way that does not create a health or sanitation issue on the flight.
6. **Proof that an Animal is a Service Animal:** If a passenger's disability is not clear, airlines may ask limited questions to determine the passenger's need for the animal even if the animal has other indicia such as a harness, vest, or tag.

7. **Documentation Requirements:** The DOT will not take enforcement action against airlines that ask for documentation related to a service animal's vaccination, training, or behavior, as long as it is reasonable to believe that the documentation would assist the airline in determining whether an animal poses a direct threat to the health and safety of others.
8. **Lobby Verification:** The DOT will not take enforcement action against airlines that require passengers with an ESA or psychiatric service animal (PSA) to present service animal documentation in the lobby/ticket counter area instead of the gate/sterile area.
9. **Advance Notice/Check-In:** Airlines may require ESA/PSA users to provide up to forty-eight hours of advance notice of travel and may require them to appear in the lobby with documentation for up to one hour prior to the check-in time for the general public. However, they may not require either of these for non-ESA/PSA service animals.
10. **Containment:** The DOT will review all issues regarding containment on a case by case basis with a focus on reasonableness. Factors that will be included are size and species of the animal, right of other passengers to enjoy their own foot space, and the continued ability of the animal to provide emotional support or perform its task while being restrained.

#### ANALYSIS:

The Final Statement is a positive action by the DOT to help air travelers with disabilities until the ACAA is amended.

Separately, the DOT issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking comment on amending the ACAA regulations on the transportation of service animals. The DOT intends to issue a Notice of Proposed Rulemaking (NPRM) on the transportation of service animals by air carriers after reviewing and considering comments that were submitted during the ANPRM comment period that closed on July 9, 2019.

#### STAFF RECOMMENDATION:

Staff will monitor the airline industry's efforts to follow the guidelines contained in the Final Statement and will prepare a staff summary for the Board once the DOT issues the NPRM mentioned above.



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### STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING September 19, 2019

TOPIC: U.S. Access Board Seeks Comments on Proposed Guidelines for Onboard Over the Toilet Wheelchairs

SUMMARY:

The U.S. Access Board is seeking public comment on proposed non-binding advisory guidelines for “onboard wheelchairs” used within aircraft cabins primarily to transport individuals with disabilities between seat and lavatory. The purpose of these advisory guidelines is to provide air carriers and wheelchair manufacturers with technical assistance in meeting their obligations under the Air Carrier Access Act (ACAA).

One notable design consideration proposes that the onboard wheelchair be designed such that it can fully enter the aircraft lavatory in a backward orientation, where the seat of the wheelchair slides over the closed toilet allowing the lavatory door to be completely closed with the occupied onboard wheelchair inside. The proposed over-toilet positioning would allow these individuals the opportunity to use the lavatory for non-toileting personal hygiene or medically needed tasks that require the privacy afforded by a closed lavatory door.

The U.S. Access Board is asking for public comment on several aspects of the proposed guidelines, including: whether the design is feasible, what is the minimum load that an onboard wheelchair should handle, what are the current aisle and lavatory dimensions for single aisle aircraft with more than 125 seats, what the specifications should be for onboard wheelchairs as to heights, back support, and padding.

The U.S. Department of Transportation (DOT) is expected to issue regulations under the ACAA, which will require performance standards for onboard wheelchairs, but will not specify technical requirements such as dimensions for specific features. The U.S. Access Board’s advisory guidelines would serve as technical assistance for covered air carriers, providing one example of how covered air carriers might satisfy the performance standard for onboard wheelchairs established by the DOT in its forthcoming rulemaking.

ANALYSIS:

The comments on the specific specifications are best made by the air carriers, wheelchair manufacturers, and passengers with disabilities. DCAB however, could support the idea of onboard wheelchairs being capable of positioning over a closed toilet.

STAFF RECOMMENDATION:

Staff recommends that DCAB submit a letter to the U.S. Access Board in support of its efforts to establish guidelines and specifications for onboard wheelchairs that can be positioned over a closed toilet.



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### STAFF SUMMARY FOR THE DISABILITY AND COMMUNICATION ACCESS BOARD GENERAL MEETING September 19, 2019

TOPIC: S. 1754/H.R. 3215 – The Disaster Relief Medicaid Act

SUMMARY:

Senator Robert P. Casey, Jr. introduced S. 1754 The Disaster Relief Medicaid Act in the Senate on June 10, 2019. It was read twice and referred to the Committee on Finance. Representative Donna E. Shalala introduced H.R. 3215 in the House on June 11, 2019. It was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means. No further action has been taken on either bill.

The purpose of these bills is to provide Medicaid assistance to individuals and families affected by a disaster or emergency, and for other purposes. In the aftermath of disasters such as hurricanes, wildfires, floods or other natural disasters, hundreds or perhaps thousands of people (depending on the disaster) are often forced to abandon their homes and relocate with no idea of how long it will be before they can return.

ANALYSIS:

After a disaster, the move from one's home state to a host state as a result of a disaster can mean the loss of access to long term services and supports. Medicaid, the program most likely to provide these services, is partially funded by the federal government and administered by the states. As a result, a person must be a resident of the state to receive Medicaid services. Individuals receiving Medicaid home and community-based services do so through a waiver that each state applies for through the federal government, and many states have waiting lists for individuals with disabilities and older adults that do not carryover when an individual is forced to relocate. The loss of health care and long term services and supports can have a significant effect on quality of life, the ability to care for one's self, the opportunity to work, and much more.

The Disaster Relief Medicaid Act would ensure that individuals eligible for Medicaid who are forced to relocate due to a disaster are able to continue to access their Medicaid supported services. The bill would provide states with resources to support the Medicaid needs of individuals forced to relocate following a disaster. The legislation would designate an individual who resides in an area covered under a presidential disaster declaration as a Relief-Eligible Survivor and allow them to continue to access their Medicaid services if they are forced to relocate to another state as a result of a disaster.

The bill helps states meet the needs of Relief-Eligible Survivors through a limited time one hundred percent federal match for displaced individuals, technical assistance and support to

develop innovative state strategies to respond to an influx of out of state individuals. It also creates a grant to help states develop an emergency response corps to provide home and community-based services. The legislation also guarantees a hundred percent federal matching payment for medical assistance is provided to states in disaster areas.

STAFF RECOMMENDATION:

Staff recommends that DCAB support S. 1754/H.R. 3215 and send a letter to the Hawaii Congressional delegation and the Chairs of the Committees on Finance and Ways and Means.

## **SPIN Report for September 2019**

### **Central District New Teacher Training**

Amanda Kaahanui was invited by Central District (DOE) to be part of their new special education teacher training. Amanda's presentation on "How to Engage Parents in the IEP Process" was favorably received by about 120 new teachers that made up two training cohorts.

### **ABLE Act**

SPIN joined Daintry Bartoldus of the DD Council, former Senator Susie Chun Oakland, and other concerned stakeholders in meeting with the State Finance Director about moving forward with an ABLE Act program for Hawaii residents with disabilities. Hawaii passed legislation in 2015 to create a Hawaii ABLE Savings Program; however, no progress was made due to concerns about staffing and administrative costs. Budget and Finance has now agreed to create a Hawaii program within a year by potentially joining a consortium of other states with ABLE investment and savings programs in place. SPIN updated its infographic on ABLE accounts as a tool to educate the public.

### **Little Warriors Field Training Exercise**

SPIN was invited by Tripler's Neurodevelopmental Pediatrics Clinic to man an informational booth at its annual field event at Schofield Barracks that offers children with disabilities and their families an opportunity to participate in physical fitness exercises with Army troops volunteering their time and expertise. The event culminated in a barbeque.

### **Leeward Community College Nursing Program Training**

Amanda is in her third year of presentations to Leeward and Kapiolani Community College nursing students who are seeking to earn an AA degree. She is part of a group of parents whose children have experienced complex medical issues and whose presentation is aimed at helping prospective nurses learn how to support families of medically fragile children. Amanda's latest speaking engagement was to about 25 nurses at Leeward CC on September 4<sup>th</sup>.